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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WILLOWMERE

THIS DECLARATION, is made as of this 7<sup>th</sup> day of December, 1998, by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant":

## STATEMENT OF PURPOSE:

Declarant is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within Willowmere, the planned unit development made subject to this Declaration and amendments thereto by the recording of this Declaration. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties and the inter-relationship of the component Parcels, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or may hereafter be subject to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit A and any additional property as may by Subsequent Amendment be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall bind on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE ONE: DEFINITIONS

The following words when used in this Declaration or any Subsequent Amendment (unless the context shall prohibit) shall have the following meanings:

(1.1) "Additional Land" shall mean and refer to additional real property subject to Declarant's unilateral right of annexation as provided elsewhere in this

Declaration, which property is more particularly described in Exhibit B attached hereto and incorporated throughout this Declaration by reference.

(1.2) "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, within or upon a Lot, the maintenance, repair or replacement of which is the responsibility of the Association.

(1.3) "Association" shall mean and refer to Willowmere Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns. The Board of Directors or Board shall be the elected body having its normal meaning under North Carolina non-profit corporation law.

(1.4) "Bylaws" shall refer to the Bylaws of Willowmere Community Association, Inc. attached to this Declaration as Exhibit C and incorporated herein by reference.

(1.5) "Common Area" shall mean all real and personal property now or hereafter owned by the Association in Willowmere for the common use and enjoyment of the Owners.

(1.6) "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, both for General and Parcel purposes, including any reasonable reserve.

(1.7) "Community" means the real property and interest in the real property described in Exhibit A attached to and incorporated in this Declaration by reference, and

(a) such additions to Exhibit A as may be made by Declarant (or its mortgagee or transferee, as provided in the Declaration) by amendment or Supplementary Declaration of all or any portion of the real property described in Exhibit B, attached to this Declaration; and

(b) such additions to Exhibit A as may be made by the Association by amendment or Supplementary Declaration of other real property.

(1.8) "Declarant" means and refers to Pulte Home Corporation, a Michigan corporation, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits A or B for the purpose of development and sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

(1.9) "Electoral District" means a geographical area or areas comprised of one or more housing types and representing a political unit for the purpose of electing directors. Districts shall not be required to be equal in population. The Declarant may at any time and from time to time until the termination of Class B membership, but no later than such termination, establish, alter, or reestablish the boundaries of Electoral Districts by the recordation of an exhibit to this Declaration setting forth the metes and bounds or other legal description of the land contained within each Electoral District. After termination of the Class B membership, the Board of Directors may prepare and record such exhibit. Such recordation shall not constitute an amendment to this Declaration and shall not require the formality of an amendment. An Electoral District may be composed of non-contiguous property, but shall be composed of properties dedicated to similar uses, to the extent practical.

(1.10) "Eligible Mortgage Holder" means a holder, insurer or guarantor of a first mortgage on a unit who has requested notice of certain matters from the Association as provided in this Declaration and the Association's Bylaws.

(1.11) "Eligible Votes" means those votes available to be cast on the issue at hand. A vote which is for any reason suspended is not available to be cast.

(1.12) "Exclusive Common Area" means and refers to certain portions of the Common Area which are for the exclusive use and benefit of one or more, but less than all, Parcels. All costs associated with maintenance, repair, replacement and insurance of Exclusive Common Areas shall be assessed against the Owners of the Lots or Residential Units and only those Parcels which are benefited thereby as a Parcel Assessment, as defined herein. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of the Owners within a particular Parcel or Parcels and supported exclusively by Parcel Assessments. Initially, any Exclusive Common Areas shall be designated as such and the exclusive use thereof shall be assigned in the deed conveying the Common Area to the Association. A portion of the Common Area may be assigned as Exclusive Common Area of a particular Parcel or Parcels and an Exclusive Common Area may be reassigned upon a vote of a majority of the total Association vote, including a majority of the votes within the Parcel(s) to which they are assigned.

(1.13) "General Assessment" means the assessment levied to fund expenses applicable to all Members of the Association.

(1.14) "General Common Area" means all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners.

(1.15) "Lot" means a portion of the Properties other than the Common Area intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the recorded maps of the Properties. Where the context indicates or requires, the term "Lot" includes any structure on the Lot.

(1.16) "Majority" means those eligible votes, Owners, or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

(1.17) "Member" means a person or entity entitled to membership in the Association, as provided in this Declaration.

(1.18) "Mortgage" means any mortgage, deed of trust and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(1.19) "Mortgagee" means a beneficiary or holder of a deed of trust, as well as a mortgagee.

(1.20) "Mortgagor" means the grantor of a deed of trust, as well as a mortgagor.

(1.21) "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Residential Unit which is part of the Properties, including contract sellers, but excluding contract purchasers and any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include the Declarant.

(1.22) "Parcel" means separately designated, developed residential areas comprised of various types of housing initially or by amendment made subject to this Declaration. For example, and by way of illustration and not limitation, a condominium development, a townhouse development, and a single family detached home subdivision may all be designated as separate Parcels. If separate Parcel status is desired, the Declarant shall designate in a Subsequent Amendment adding property to the terms and conditions of this Declaration that such Property shall constitute a separate Parcel or Parcels. In the absence of specific designation of separate Parcel status, all Property made subject to this Declaration shall be considered a part of the

same Parcel. The Board may also grant Parcel status to any area if so requested in writing by Owners holding at least seventy-five (75%) percent of the total vote entitled to vote in such area.

(1.23) "Parcel Assessments" means assessments for common expenses provided for in this Declaration or in any Subsequent Amendment which shall be used for maintaining the Properties within a given Parcel and for promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Residential Unit or Lot against which the specific Parcel Assessment is levied, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized below.

The Parcel Assessments shall be levied equally against Owners of Residential Units or Lots in a Parcel for such purposes that are authorized by this Declaration or by the Board of Directors from time to time; provided, however, in the event of assessments for exterior maintenance of dwellings, insurance on dwellings, or replacement reserves which pertain to particular dwellings and pursuant to an amendment to this Declaration, such assessments (which are for the use and benefit of particular Lots or Residential Units) shall be levied upon a pro rata basis among benefited Owners.

(1.24) "Parcel Association" shall mean any non-profit association established under any Subsequent Amendment or other declaration (including a condominium association or townhome association) for Owners and occupants of Residential Units within a Parcel for the purpose of maintaining the Properties within a given Parcel and for promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Residential Units within a Parcel.

(1.25) "Parcel Expenses" means and includes the actual and estimated expenses incurred by the Association for the benefit of Owners of Residential Units within a particular Parcel, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

(1.26) "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

(1.27) "Property" or "Properties" shall mean and refer to the real property described on page one of this Declaration and such additional real property as may be added in accordance with Article 8.

(1.28) "Residential Unit or Unit" means a structure situated upon a portion of the Properties intended for any type of independent ownership and for use and occupancy as a single family residence, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, patio or zero lot line homes and single family houses on separately platted lots as may be developed, used and defined as provided in this Declaration or in Subsequent Amendments or other declaration covering all or part of the Properties; provided, however, the term includes all portions of the Lot on which any structure has been situated. For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate agency of Mecklenburg County or other local governmental entity.

(1.29) "Special Assessment" means the assessments levied in accordance with Article 10, Section 5 of this Declaration.

(1.30) "Subsequent Amendment" means an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that amendment to the provisions of this Declaration.

(1.31) "Willowmere Community Association, Inc." means that North Carolina non-profit corporation provided for in this Declaration of Covenants, Conditions and Restrictions for Willowmere duly recorded in the Mecklenburg County, North Carolina Public Registry, which Declaration shall be known as the "Declaration".

(1.32) "Voting Member" means the representative of each Parcel or Parcel Association who shall be responsible for casting the votes attributable to the Lots or Residential Units which he or she represents for election of Directors, amendment of this Declaration or the Bylaws, and other matters provided for in this Declaration or the Bylaws. The Voting Member from each Parcel or Parcel Association, if any, shall be the senior elected officer (e.g. Parcel Committee chairman or Parcel Association president) from that component; the alternate Voting Member shall be the next most senior officer.) Each Voting Member shall be entitled to cast all votes attributable to the Lots or Residential Units he or she represents.

## ARTICLE TWO: PROPERTY RIGHTS

(2.1) Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive right of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot or Residential Unit, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Area and impose reasonable limits on the number of guests who may use the facilities;

(b) The right of the Association to suspend any Owner's voting rights and the right to use any of the facilities for any period during which any assessment of the Association against that Owner's Lot or Residential Unit remains unpaid, and for any infraction by an Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;

(c) The right of the Declarant, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Common Area contained within the respective Properties to any public agency, authority, or utility for such purposes as benefits only the Properties or portions thereof and Owners of Lots or Residential Units contained therein;

(d) The right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area, provided two-thirds (2/3) of each Class of Members present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within Willowmere; and

(e) The right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective

unless an instrument agreeing to such dedication or transfer has been approved (i) by at least two-thirds (2/3) of the votes which those Class A Members of the Association which are present are represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class B Member of the Association, so long as such membership shall exist, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage utilities and drainage facilities, upon, over, under and across the Common Area without the assent of the Members if such easements are requisite for the convenient use and enjoyment of the Properties. The Board of Directors shall also have the right to dedicate or transfer all or any part of the Common Area to third parties provided the Association acquires in return other Common Area of equal or greater value.

### ARTICLE THREE: ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

(3.1) Architectural Control Committee. Before all Class B Lots shall cease to exist and be converted to Class A Lots pursuant to Article 4, Declarant shall appoint an Architectural Control Committee consisting of not less than three (3) Members to serve as representatives of the Association's Board of Directors and enforce the restrictions hereafter set forth.

Prior to the formation of said Committee, Declarant shall have the responsibility of enforcing the restrictions set forth in this Article. Upon the earlier of the following two dates, the Architectural Control Committee shall be appointed by the Board of Directors:

- (1) Upon the termination of the Class B Membership; or
- (2) When in its discretion, the Declarant so determines.

Reference herein to the Committee shall mean the Declarant until such Committee is appointed.

The following architectural, maintenance and use restrictions shall apply to each and every Lot or Residential Unit now or hereafter subject to this Declaration.



(3.2) Approval of Plans and Architectural Committee. After the initial construction of a Residential Unit has been completed by Declarant, no construction, reconstruction, remodeling, alteration, roofing or addition to any structure, building, swimming pool, fence, wall, drive or walkway, or exterior color change, shall be commenced or maintained upon any Lot or Residential Unit nor shall any exterior addition to or change or alteration therein be made after completion of construction of said Residential Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, material and location of the same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding structures and topography by the Committee. If the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications shall have been submitted to it, further approval will not be required and this Article will be deemed to have been fully complied with. Upon giving approval to such plans and specifications, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans as have been previously approved by the Committee. The Committee or the Board of Directors of the Association shall be entitled to stop any construction in violation of these restrictions.

(3.3) Use. The Property shall be used only for residential, recreational, and related purposes as may more particularly be set forth in this Declaration, amendments thereto or subsequently recorded declarations creating Associations subject to this Declaration. The Association, acting through the Board of Directors, shall have standing power to enforce use restrictions contained in any such declaration as if such provisions were a regulation of the Association.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of Residential Units and Common Area, including common property of any Parcel or Parcel Association, in addition to those contained herein, and to impose reasonable user fees for facilities, including, but not limited to, vehicle storage areas, pathway systems, swimming pools, tennis courts, community centers and parking facilities if any. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled, or modified in a regular or special meeting of the Association by Voting Members representing a Majority of the total Class A votes in the Association and by the vote of a Class B Member, so long as such membership shall exist. The Declaration or other creating document for any Parcel Association may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

(3.4) Aerials and Antennas. No exterior television or radio or other aerial, antenna, dish, tower or other transmitting or receiving structure or support thereof, shall be placed, allowed or maintained upon any portion of the Community, including any Residential Unit, without the prior written consent of the Board or its designee. The Association may erect an aerial for a master antenna system, should any such master system or systems be utilized by the Association and require any such exterior antenna. Notwithstanding the above, a television satellite dishes not exceeding 40 inches in diameter which is attached to the dwelling on the Residential Unit and is not visible from the street shall be permitted.

(3.5) Owners' Right to Ingress, Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to his or her Lot or Residential Unit and shall have the right to lateral support for his or her Lot or Residential Unit, and such right shall be appurtenant to and pass with the title to each Lot or Residential Unit.

(3.6) Use of Lots. Except as may be otherwise expressly provided in this Declaration, each Lot or Residential Unit shall be used for residential purposes only as a residence for a single family related by blood, adoption or marriage. No Lot or Residential Unit shall at any time be used any for commercial, business, or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this section shall prohibit: (a) the Declarant from conducting such sales, leasing and promotional activities on any Lot or Residential Unit as the Declarant shall determine (including, but not limited to, using any house on any Lot as a model home and a sales office); (b) the owner of any Lot or Residential Unit from using a portion of a building located on such Lot as an office, provided that such use does not create regular customer or client traffic to and from such Lot or Residential Unit and no sign, logo, symbol or name plate identifying such business is displayed anywhere on such Lot or Residential Unit; or (c) the lease or rental of a Lot or Residential Unit or any building thereon for residential purposes so long as the lease is in compliance with the reasonable rules and regulations as the Board of Directors may promulgate, and any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, Bylaws and the rules and regulations adopted hereunder.

Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or Residential Unit or on the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or Residential Unit or on the

Common Area or any part thereof and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot or Residential Unit which could reasonably cause embarrassment, discomfort, or annoyance to other Owners and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

(3.7) Use of Common Area. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Common Area or upon any Lot or Residential Unit, except in accordance with the initial construction of the improvements located thereon or as approved by the Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the Owners of Lots or Residential Units may use the property outside their respective Lots or Residential Units only in accordance with reasonable regulations as may be adopted by the Association's Board of Directors or as is expressly provided herein. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

(3.8) Signs. No advertising signs of any type or kind shall be erected, placed or permitted to remain upon any Lot or Residential Unit or Common Area with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed 2' x 3' in dimension and shall refer only to the premises on which displayed, there being only one permitted sign to a Lot or Residential Unit.

(3.9) Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots or Units. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule or requirement shall be specifically overruled, cancelled or modified by the Board or the Association in a regular or special meeting by the vote of Class A Members holding a Majority of the total votes in the Association and by the vote of the Class B Member, so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions and monetary fines may be collected by lien and foreclosure, as provided in Article 10.

(3.10) Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot or Residential Unit, and no trailer, shed, tent, garage, carport or any other structure of a similar

nature shall be used as a residence either temporarily or permanently; provided however, this paragraph shall not be construed to prevent the Declarant from using sheds or other temporary structures during construction for such purposes as Declarant deems necessary or later approved by the Association.

(3.11) Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on the Properties, except that dogs, cats or other normal household pets may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred or maintained for any commercial purpose.

(3.12) Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Residential Unit.

(3.13) Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Residential Unit. No Residential Unit shall be used, in whole or in part, for the storage of any property or thing that will cause such Residential Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Residential Unit that will admit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Residential Unit, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any property adjacent to the Residential Unit. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Properties.

(3.14) Unsightly or Unkempt Conditions. No trash, rubbish, stored materials, wrecked, unlicensed or inoperable vehicles, boats and/or trailers, recreational vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish or other such debris for pickup by governmental or other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a Majority of the Board of Directors of the Association, the Association may, through its agent or representative, file (5)

days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property requesting the Owner to comply with the requirements of this paragraph, enter and remove all such unsightly objects, debris or other vegetation at the Owner's expense and the Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Association in the enforcement of this paragraph promptly upon demand. No such entry as provided herein shall be deemed a trespass.

(3.15) Clothes Lines, Garbage Cans, Etc. All clothes lines, garbage cans, above-ground tanks, woodpiles and other similar items shall be located or screened so as to be concealed from view of neighboring Residential Units, streets and property located adjacent to the Residential Unit. All rubbish, trash and garbage shall be regularly removed from the Residential Unit and shall not be allowed to accumulate thereon.

(3.16) Lakes, Ponds and Streams. All lakes, ponds and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, swimming, motorized boating, playing or use of personal flotation devices shall be permitted; provided, however, fishing from the shore or banks thereof shall be permitted. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams located within the Properties.

(3.17) Play Facilities. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage or injury occurring thereon or related to use thereof.

### (3.18) Maintenance.

(a) Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Area of Common Responsibility.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of General Common Areas shall be a Common Expense to be allocated among all Lots or Residential Units as part of the General Assessment. All costs associated with maintenance, repair, and

replacement of Exclusive Common Areas shall be a Parcel Expense assessed as a Parcel Assessment solely against the Lots or Residential Units within the Parcel(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

The Association may, in the discretion of its Board, assume the maintenance responsibilities of a Parcel set out in this Declaration or in any Subsequent Amendment or declaration subsequently recorded which creates any Parcel Association upon all or any portion of the Properties. In such event, all costs of such maintenance shall be assessed only against Lots or Residential Units within the Parcel to which the services are provided. This assumption of responsibility may take place either by contract or agreement or service then being provided is not consistent with the community-wide standards of the Properties. The provision of services in accordance with this Section shall not constitute discrimination within a class.

(b) Owner's Responsibility. In accordance with any additional Declaration and Subsequent Amendments to this Declaration which may be filed on portions of the Properties and in accordance with this Declaration, all maintenance of the Lots or Residential Units and all structures, parking areas, and other improvements within or upon the Lot or Residential Unit shall be the sole responsibility of the Owner thereof who shall perform such maintenance in a manner consistent with the community-wide standards of Willowmere and the applicable covenants. If the Board of Directors determines that (i) any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, or (ii) that the need for maintenance, repair, or replacement which is in the Area of Common Responsibility is caused through the willful or negligent act of any Owner, his or her family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense. Such costs shall be added to and become a part of the assessment to which such Owner is subject and shall become an lien against the Unit, as provided in Article 10. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. In the case of (i) above where the Owner has not discharged his or her responsibility, unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion

within such time period, to commence replacement or repair within the (10) days. If the Board determines that an emergency exists, that an Owner has not complied with the demand given by the Association as herein provided, or that the need for maintenance or repair is in the Area of Common Responsibility as in (ii) above, then the Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above. The Association or its agents or employees shall have a right of entry upon or into the Unit as necessary to perform such work and shall not be liable for trespass for such entry or work.

(c) Parcel's Responsibility. Upon resolution of the Board of Directors, each Parcel shall be responsible for paying, through Parcel Assessments, costs of maintenance of certain portions of the Area of Common Responsibility within or adjacent to such Parcel, which may include, without limitation, buildings, landscaping, and amenities within the Parcel, the costs of maintenance of any right-of-way and greenspace between the Parcel, adjacent public roads, private streets within the Parcel, and lakes or ponds within the Parcel, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

Any Parcel Association having responsibility for maintenance of all or a portion of the property within a particular Parcel pursuant to a declaration of covenants affecting the Parcel shall perform such maintenance responsibility in a manner consistent with the community-wide standards. If any such Parcel Association fails to perform its maintenance responsibility as required herein and in any additional declaration, the Association may perform it and assess the costs against all Lots or Residential Units within such Parcel as provided in Article 10, Section 4 of this Declaration.

#### ARTICLE FOUR: MEMBERSHIP AND VOTING RIGHTS

(4.1) Membership. Every person or entity who is the record owner of a fee or undivided fee interest in any Lot or Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Lot or Residential Unit owned. In the event the Owner of a Lot or Residential Unit is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the

Member's spouse, but in no event shall more than one (1) vote for each class of membership applicable to a particular Lot or Residential Unit be cast for each Lot or Residential Unit.

(4.2) Voiting. The Association shall have two (2) classes of membership, Class A and Class B, as follows:

(a) Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any.

Class A Members shall be entitled on all issues to one (1) vote for each Lot or Residential Unit in which they hold the interest required for membership by Section 4.1 of this Article. There shall be only one (1) vote per Lot or Residential Unit; provided, however, no vote shall be cast or counted for any Lot or Residential Unit not subject to assessment. Unless otherwise specified in this Declaration or the Bylaws, the vote of each Lot or Residential Unit shall be exercised by the Voiting Member representing such Member's Unit as defined in Article 1.

(b) Class B. Class B Members shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and who is designated as such in an recorded instrument executed by Declarant. The Class B Member shall originally be entitled to three (3) votes for each Residential Unit or Lot in which it holds the interest required for membership by Section 4.1 of this Article. The Class B membership shall terminate and become converted to Class A membership upon the happening of the earlier of the following:

- (i) When the total outstanding Class A votes equal or exceed the total outstanding Class B votes;
- (ii) December 31, 2008; or
- (iii) When, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot or Residential Unit in which it holds the interest required for membership under (4.1) hereof. At such time, the Declarant shall call a



meeting, as provided in the Bylaws of the Association for special meetings to advise the membership of the termination of Class B status.

(4.3) Parcel Voting. Every Lot or Residential Unit shall be located within a Parcel as defined in Article 1. The Lots or Residential Units within a particular Parcel may be subject to additional covenants and/or the Lot or Residential Unit Owners may all be members of another owners association (Parcel Association) in addition to the Association, but no such Parcel Association shall be required except in the case of a condominium. Any Parcel which does not have a Parcel Association shall elect a Parcel Committee, as described in Article V, Section 2, of the Bylaws, to represent the interests of Owners of Lots or Residential Units in such Parcel.

Each Parcel Association or Committee, upon the affirmative vote, written consent, or a combination thereof, of a majority of Owners within the Parcel may request that the Association provide a higher level of service or special services for the benefit of Lots or Residential Units in such Parcel, the cost of which shall be assessed against the benefited Lots or Residential Units as a Parcel Assessment pursuant to Article 10.

The senior elected officer of each Parcel Association or the Parcel Committee shall serve as the Voting Member for such Parcel and shall cast all votes attributable to Lots and Residential Units in the parcel on all Association matters requiring membership vote, unless otherwise specified in this Declaration or the Bylaws. The Voting Member may cast all such votes as he/she, in his/her discretion, deems appropriate.

The developer of any such Parcel may apply to the Board of Directors to divide the parcel constituting the Parcel into more than one (1) Parcel or to combine two (2) Parcels into one (1) Parcel at any time. Upon a petition signed by a majority of the Lot or Residential Unit Owners in the parcel, any Parcel Association or Parcel Committee may apply to the Board of Directors to divide the property comprising the Parcel into two (2) or more Parcels or to combine two (2) Parcels into one (1) Parcel. Any such application shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed parcels. A Parcel division requested by the Parcel or by the developer of the Parcel shall automatically be deemed granted unless the Board of Directors denies such application in writing within thirty (30) days of its receipt thereof. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the area proposed to be divided into separate Parcels. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

## ARTICLE FIVE: INSURANCE

(5.1) Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Common Area and may, but shall not be obligated to, by written agreement with any Parcel Committee (as defined in the Bylaws of the Association) in the Properties subject to this Declaration, assume the responsibility for providing the same insurance coverage on the Properties contained within the Parcel. If blanket all-risk insurance is not reasonably available, then at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Area, the Association may, but shall not under any circumstances be obligated to, obtain and continue in effect adequate blanket all-risk casualty insurance in such form as the Board of Directors deems appropriate for one hundred percent (100%) of the replacement cost of all structures on the Lots or Residential Units in a Parcel or Parcels. In the event such insurance is obtained by the Association, the costs thereof shall be charged to the Owners of Lots or Residential Units within the benefited Parcel(s) as a Parcel Assessment, as defined in Article 1 hereof, and the provisions of this Article shall apply to policy provisions, loss adjustment, and all other subjects to which this Article applies to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance for each Member to be furnished to the Association or Parcel, as applicable.

The Board shall also obtain a public liability policy covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million (\$1,000,000) Dollar single-person limit as respects bodily injury and property damage; a Three Million (\$3,000,000) Dollar limit per occurrence, if reasonably available; and a Five Hundred Thousand (\$500,000) Dollar minimum property damage limit. Premiums for all insurance on the Common Area shall be Common Expenses of the Association; premiums for insurance provided to other Parcel Associations or Parcels shall be charged to those associations or Parcels. The policy may contain a reasonable deductible, and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals at least one hundred percent (100%) of the

replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance or, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

Insurance obtained on the properties within any Parcel, whether obtained by such Parcel or the Association, shall at a minimum comply with the applicable provisions of this Article including the provisions of this Article applicable to policy provisions, loss adjustment, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Parcel Association, if any.

Cost of insurance coverage obtained by the Association for the Common Area shall be included in the General Assessment, as defined in Article 1. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in North Carolina and holding a rating of XI or better in the financial category as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies on the Common Area shall be for the benefit of the Lot or Residential Unit Owners and their mortgagees as their interests may appear; all policies secured at the request of a Parcel Association or Parcel Committee shall be for the benefit of the Owners and their Mortgagees of Residential Units within the Parcel.

(c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into

contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Mecklenburg County, North Carolina area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity

coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

(5.2) Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Lot or Residential Unit and may be enforced by such mortgagee.

(b) If it is determined, as provided for in Section 3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 5.2(a) of this Article 5.

(5.3) Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area or to the common property of any Parcel shall be repaired or reconstructed unless the

Voting Members representing at least seventy-five (75%) percent of the total vote of the Association, if Common Area, or damage to its common property, if not Common Area, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the Properties shall be restored to their natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(5.4) Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost of repair or reconstruction, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a special assessment against all Owners as permitted in Article 10, Section 5. If the damage or destruction involves the common property of a Parcel, only the Owners of Residential Units or Lots in the affected Parcel shall be subject to such assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### ARTICLE SIX: NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 5.3 of Article 5 in the case of damage or destruction, or unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

## ARTICLE SEVEN: CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owner) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property originally submitted to the Declaration or any Additional Land, and Voting Members representing at least seventy-five (75%) of the Class A Members of the Association shall otherwise agree, the Association shall restore or replace the improvements so taken on the remaining land included in the Common Area to the extent funds are available for the restoration or replacement of improvements, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article 5 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## ARTICLE EIGHT: ANNEXATION

(8.1) Annexation without Approval of Class A Membership. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until December 31, 2008, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the improved and unimproved real property described in Exhibit B attached hereto and by reference made a part hereof by filing in the Mecklenburg County Public Registry an amendment annexing such property. Such amendment to this Declaration shall not require the vote of Class A members. Any such annexation shall be effective upon the filing for record of such amendment unless otherwise provided therein.

Declarant shall have the unilateral right to transfer to any other person the right, privilege and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit B, attached hereto, which, at the time of such transfer and assignment (or contemporaneously therewith), is subjected to the provisions of this Declaration.

(8.2) Annexation with Approval of Class A Membership. Subject to the consent of the owner of the property to be annexed, upon the written consent or affirmative vote of a majority of the Class A Members of the Association other than Declarant present or represented by proxy at a meeting duly called for such purpose, and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject in accordance with Section 8.1 of this Article, the Association may annex real property other than that described in Exhibit B, and following the expiration of Declarant's right in Section 8.1, the real property described in Exhibit B, to the provisions of this Declaration and the jurisdiction of the Association by filing a Subsequent Amendment with respect to the property being annexed in the Mecklenburg County Public Registry. Such annexation shall require the affirmative vote of Voting Members representing a majority of the Class A votes of the Association, other than Declarant, present at a meeting duly called for such purpose, and of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject in accordance with Section 8.1 of this Article.

(8.3) Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits A or B which upon conveyance or dedication shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

(8.4) Amendment. This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibits A or B.

#### ARTICLE NINE: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

(9.1) Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, if any), and shall keep it in good, clean, attractive,



and sanitary condition, order, and repair, pursuant to the terms and conditions of this Declaration and the Bylaws.

(9.2) Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, and other common services to each Lot or Parcel.

(9.3) Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests located within the properties described in Exhibits A or B conveyed to it by the Declarant.

(9.4) Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

(9.5) Powers of the Association with Respect to Parcels. The Association shall have the absolute power to veto any action taken or contemplated to be taken by any Parcel Association or Committee, and the Association shall have the absolute power to require specific action to be taken by any Parcel Association in connection with the Parcel's obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may veto any decision of any Parcel Association or Committee (or architectural control board or other committee thereof), and the Association may require specific maintenance or repairs or aesthetic changes to be effectuated, require that a proposed budget include certain items and that expenditures be made therefor, veto or cancel any contract providing for maintenance, repair or replacement of the property governed by such Parcel Association or Committee and otherwise require or veto any other action as the Association deems appropriate from time to time.

Any action required by the Association in a written notice to be taken by a Parcel Association or Committee shall be taken within the time frame set by the Association in such written notice. If the Parcel Association or Committee fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Parcel Association or Committee and shall assess the Lots or Residential Units governed by such Association or in such Parcel for their pro rata share of any expenses incurred by the Association under the circumstances (to cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association) in the manner provided for the levying of special assessments in Article 10, Section 10.5. Such assessments may be collected as a Special Assessment hereunder and shall be subject to all lien rights provided for herein.

(9.6) Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or Residential Unit or any portion of the Common Area to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Unit Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Unit Owner and shall be collected as provided for herein for the collection of assessments.

#### ARTICLE TEN: ASSESSMENTS

(10.1) Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Units, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

(10.2) Creation of Assessments. Each Owner of any Lot or Residential Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as

hereinafter provided; and (c) specific assessments against any particular Lot or Residential Unit which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest, not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot or Residential Unit against which assessment is made.

Each assessment, together with interest, costs, and reasonable attorney's fees, shall be the personal obligation of the person who was the Owner of such Lot or Residential Unit at the time of the assessment, and his or her grantee shall be jointly and severally liable for the portion of the assessment due and payable at the time of conveyance to the extent expressly assumed; provided, however, no first mortgagee who obtains title to a Lot or Residential Unit pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to the acquisition of title. Assessments shall be paid in the manner and on dates fixed by the Board of Directors, and may include, without limitation, acceleration of the annual assessment for delinquents; unless the Board otherwise provided, the assessments shall be paid in monthly installments.

The Association shall upon demand at any time furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular unit. Such certificate shall be conclusive evidence of payment of such assessment to the Association therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Twenty-five Dollars (\$25.00) for the issuance of such certificate.

(10.3) Computation of Assessment. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot or Residential Unit for the following year to be delivered to the Voting Members at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a vote of the Voting Members or their alternates representing at least a Majority of the Owners. Notwithstanding the foregoing, however, in the event the budget is disapproved or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as

provided in this Section, the budget in effect for the then current year shall continue for the succeeding year.

Notwithstanding the foregoing, until January 1 of the year immediately following the conveyance of the first Residential Unit in Willowmere to an Owner, the maximum annual General Assessment shall be Six Hundred Eighty-Five Dollars (\$685.00) on each Residential Unit.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot or Residential Unit to an Owner, the maximum annual General Assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership not more than the greater of (1) six percent (6%) or (2) the increase in the Consumer Price Index from the previous year.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot or Residential Unit to an Owner, the maximum annual General Assessment may be increased above the greater of six percent (6%) or the previous year increase in the Consumer Price Index by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual General Assessment at an amount not in excess of the maximum herein provided.

(10.4) Computation of Parcel Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Parcel Expenses to be incurred by the Association for each Parcel on whose behalf Parcel Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration or the Bylaws specifically authorizes the Board to assess certain costs as a Parcel Assessment. The Parcel Association or Committee for each Parcel may request that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Parcel, as appropriate. Parcel Expenses shall be allocated equally among all Lots or Residential Units within the Parcel benefited thereby and levied as a Parcel Assessment. The Board shall cause a copy of such budget and notice of the amount of the Parcel Assessment to be levied on each Lot or Residential Unit in the Parcel for the coming year to be delivered to each Owner of a Lot or Residential Unit in the Parcel at least thirty (30) days prior to the

beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by a majority of the Owners of Lots or Residential Units in the Parcel which the Parcel Assessment applies; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten percent (10%) of the Lots or Residential Units in such Parcel. Meetings of Parcel Committees, if called, shall be conducted in accordance with Article V, Section 2 of the Bylaws.

In the event the proposed budget for any Parcel is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

(10.5) Special Assessments. In addition to the other assessments authorized in this Article, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each Lot or Residential Unit does not exceed Five Hundred (\$500) Dollars in any one fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Lot or Residential Unit to exceed this limitation shall be effective only if approved by a vote of Voting Members or their alternates representing a Majority of the Class A and B members. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

(10.6) Lien for Assessments. All sums assessed against any Lot or Residential Unit pursuant to this Declaration, together with late charges, interest, costs and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot or Residential Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot or Residential Unit, except for (a) liens of ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the Mecklenburg County Public Registry, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any Lot or Residential Unit after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

(10.7) Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due are delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount the Board may from time to time determine. The Association shall give a notice of delinquency to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days of the due date, a lien, as provided in this Article, shall attach and shall include the late charge, interest on the principal amount due at twelve percent (12%) per annum (not to exceed the maximum legal rate), and all late charges from the date first due, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. If the assessment remains unpaid after sixty (60) days from the due date, the Association may, as determined by the Board, institute suit to collect the amounts due and to foreclose the lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as other liens for the improvement of real property may be foreclosed. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustrations, but not limitation, by non-use of Common Areas, or abandonment of the Unit. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to late charges, then interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit, in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit, in the order of their coming due.

(10.8) Capital Budget and Contributions. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment, as provided in Section 10.3 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(10.9) Subordination of the Lien to First Mortgages. The lien of the assessments, including interest, late charges, costs (including attorneys fees) provided for herein, shall be subordinate to the lien of any First Mortgage upon any Lot or Residential Unit. The sale or transfer of any Lot or Residential Unit shall not affect the assessment lien. However, the sale or transfer of any Lot or Residential Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Residential Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Lot or Residential Unit obtains title, his or her successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot or Residential Unit which became due prior to the acquisition of title to such Lot or Residential Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all the Lots or Residential Units, including such acquirer, his or her successors and assigns.

(10.10) Capitalization of Association. Upon acquisition of record title to a Lot or Residential Unit from Declarant, each Owner shall contribute to the Association an amount equal to fifty percent (50%) of the amount of the annual General Assessment for that Lot or Residential Unit as determined by the Board, as a contribution to Association's working capital fund. The working capital fund can be used for all Common Expenses of the Association.

(10.11) Date of Commencement of Annual General Assessments and Annual Parcel Assessments. The annual General Assessments and annual Parcel Assessments provided for herein shall commence as to all Lots or Residential Units then existing and subject to assessment under this Declaration on the date of the conveyance of the first Lot or Residential Unit by the Declarant to a Class A member and shall be due and payable in a manner and on a schedule as the Board of

Directors may provide. The first annual General Assessment and annual Parcel Assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any Lot or Residential Unit becomes subject to assessment hereunder shall be the date on which the later of the following occurs:

- (a) the Lot or Residential Unit becomes subject to this Declaration; or
- (b) the appropriate official of Mecklenburg County, North Carolina or other appropriate governing municipality issues a certificate of occupancy or its equivalent stating that the Unit is substantially complete and available for occupancy.

(10.12) Assessments by Declarant. After the commencement of assessment payments as to any Lot or Residential Unit, Declarant covenants and agrees to pay the full amount of the annual General Assessment for each occupied Lot or Residential Unit it owns. Notwithstanding anything contained herein to the contrary, the Declarant: (1) shall be required to pay only fifty (50%) percent of the annual General Assessment and Parcel Assessment for unoccupied and improved Lots or Residential Units that it owns; and (2) shall not be required to pay any annual General Assessment or Parcel Assessment for vacant Lots that Declarant owns. At Declarant's option, any amounts from Declarant to fund any shortfall in the Association's annual budget may be credited against future General Assessments and Parcel Assessments owed by Declarant.

(10.13) Specific Assessments. The Board shall have the power specifically to assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Lots or Residential Units for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

- (a) Expenses of the Association which benefit less than all of the Lots or Residential Units may be specifically assessed equitably among all of the Lots or Residential Units which are benefited according to the benefit received.



(b) Expenses of the Association which benefit all Lots or Residential Units, but which do not provide an equal benefit to all, may be specifically assessed equiably among all Lots or Residential Units according to the benefit received.

(10.14) Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of General Assessments, Parcel Assessments, and Special Assessments:

(a) all Common Area;

(b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks.

(10.15) Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

#### ARTICLE ELEVEN: MORTGAGEE RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Lots or Residential Units in Willowmere. The provisions of this Article apply to both this Declaration and to the Bylaws of Willowmere Community Association, Inc., notwithstanding any other provisions contained in this Declaration or the Bylaws; provided, however, voting percentages set forth in this Article are subject to and are controlled by higher percentage requirements, if any, set forth in this Declaration or the Bylaws for specific actions. Where indicated, these provisions apply only to Eligible Mortgage Holders, as defined in this Article.

(11.1) Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (the request to state the name and address of the holder, insurer, or guarantor and the Unit address), (the holder, insurer, or guarantor then becoming an Eligible Mortgage Holder), will be entitled to timely written notice of:

(a) any proposed termination of the Association;

(b) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by the Eligible Mortgage Holder;

(c) any delinquency in the payment of assessments or charges owned by an Owner of a Lot or Residential Unit subject to the mortgage of the Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days or any default in the performance by the Owner of any obligation under the Declaration or Bylaws which is not cured within sixty (60) days;

(d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(e) any proposed action which would require the consent of Eligible Mortgage Holders, as required in Sections 11.2 and 11.3 of this Article.

(11.2) Other Provisions for First Lien Holders. To the extent possible under North Carolina law:

(a) Any restoration or repair of the Properties after partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications, unless Eligible Mortgage Holders of first mortgages on Lots or Residential Units to which are allocated at least fifty-one (51 %) percent of the votes of Lots or Residential Units subject to mortgages held by such Eligible Mortgage Holders approve of other plans for the repair and restoration of the Properties.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation must be approved by the Eligible Mortgage Holders of first mortgages on Lots or Residential Units to which are allocated at least fifty-one percent (51 %) of the votes of Lots or Residential Units subject to mortgages held by such Eligible Mortgage Holders.

(11.3) Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Subsection 11.2(a) and 11.2(b) in this Article, or the addition of land in accordance with Article 8.

(a) The consent of at least sixty-seven percent (67%) of the Class A votes and of the Declarant, so long as Declarant owns any land subject to this Declaration, and the approval of the Eligible Mortgage Holders of first mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Units subject to a mortgage appertain, shall be required to terminate the Association.

(b) The consent of at least sixty-seven percent (67%) of the Class A votes and of the Declarant, so long as Declarant owns any land subject to this Declaration, and the approval of Eligible Mortgage Holders of first mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a mortgage appertain, shall be required materially to amend any provision of the Declaration, Bylaws, or Articles of Incorporation of the Association, or to add any material provision to the above documents, which establish, provide for, govern, or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens, or subordination of liens;

(iii) reserves for maintenance, repair, and replacement of the Common Area;

(iv) insurance or fidelity bonds;

(v) rights to use of the Common Area;

(vi) responsibility for maintenance and repair of the Properties;

(vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;

(viii) boundaries of any Lot or Residential Unit;

(ix) leasing of Lots or Residential Units;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot or Residential Unit;

(xi) establishment of self-management by the Association when professional management has been required by an Eligible Mortgage Holder; or

(xii) any provision in the Declaration, Bylaws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first mortgages on Lots or Residential Units.

(11.4) Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing three Sections of this Article. Unless two-thirds (2/3) of the first mortgagees or Owners give their consent the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Properties shall not be deemed a transfer);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area;

(d) fail to maintain fire and extended coverage insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such Properties.

The provisions of this Section 11.4 shall not be construed to reduce the percentage vote that must be obtained from mortgagees or Owners where a larger percentage votes is otherwise required for any of the actions contained in this Section.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for the Common Area, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

(11.5) Notice to Association. Upon request, each Lot or Residential Unit Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

(11.6) Amendments by Board. Should the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such change.

(11.7) Veterans Administration Approval. As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article 8, the following actions shall require the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any Mortgage in the Community: annexation of additional property to the Community, except for annexation by Declarant pursuant to a plan of annexation previously approved by the Veterans Administration; dedication of Common Property to any public entity; and material amendment of the Declaration, Bylaws, or Articles of Incorporation.

(11.8) Applicability of Article 11. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or North Carolina law for any of the acts set out in this Article.

(11.9) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

## ARTICLE TWELVE: EASEMENTS

(12.1) Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

(12.2) Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Units due to

the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Area or as between said adjacent Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

(12.3) Reservation for Expansion. Declarant hereby reserves to itself and for Owners in all future phases, a perpetual easement and right-of-way for access over, upon, and across the Properties for construction, utilities, drainage, ingress and egress, and for use of the Common Area. The location of these easements and rights-of-way must be approved and documented by Declarant or the Association by recorded instruments.

(12.4) Right of Entry. The Association shall have the right, but not the obligation, to enter into any Unit for emergencies, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

(12.5) Easement for Access Over Private Streets. There is hereby reserved to the general public an easement for ingress, egress and regress over all private streets within the Properties, subject to such rules and regulations as may be promulgated by the Board of Directors.

(12.6) Easements for Entry Monuments and Signs. Declarant hereby grants the Association perpetual, non-exclusive easements over the portion of those Lots or Residential Units which are designated as sign and landscaping easements on all recorded maps of Willowmere. Easements over these areas shall be for the purpose of the installation, maintenance and repair of all Willowmere entry monuments, walls, signs and landscaping.

(12.7) Easements for Perimeter Landscaping. Declarant hereby grants the Association perpetual, non-exclusive easements over all Lots or Residential Units on

the perimeter of the community for the installation, maintenance, and repair of all perimeter landscaping for Willowmere.

#### ARTICLE THIRTEEN: GENERAL PROVISIONS

(13.1) Duration. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

(13.2) Amendment. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a two-thirds (2/3rds) of the Class A and B members and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration. Amendments to this Declaration shall become effective upon recordation in the Mecklenburg County Public Registry unless a later effective date is specified therein.

(13.3) Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability

and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

(13.4) Construction and Sale. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots or Residential Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant and the clubhouse complex, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 13.4 shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

(13.5) Severability. Invalidity of any one of the covenants or restrictions contained in this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

(13.6) Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

(13.7) Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Parcel Association and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants, restrictions, and provisions or any articles of incorporation, bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any other Parcel Association shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association.

#### ARTICLE FOURTEEN: DECLARANT'S RIGHTS



Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of Mecklenburg County, North Carolina. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit B in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots or Residential Units shall continue, it shall be expressly permissible for Declarant and any builder approved by Declarant to maintain and to carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots or Residential Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant and any builder approved by Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots or Residential Units owned by the Declarant and the community center, if any, which may be owned by the Association, as models and sales offices.

So long as Declarant continues to have rights under this paragraph, no person or entity shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

So long as Declarant continues to have rights under this paragraph, all sales, promotional, and advertising materials, and all forms for deeds, contracts for sale, and other closing documents for the subdivision and sale of property in the Properties by any Parcel developer or builder shall be subject to the prior approval of Declarant, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any Parcel developer or builder of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Declarant fails to so notify any Parcel Developer within such thirty (30) day period, Declarant shall be deemed to have waived any objections to such materials and

documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed under seal on the day and year first above written.

DECLARANT:

PULTE HOME CORPORATION, a Michigan  
corporation

By:  (SEAL)  
Thomas W. Bryce, Attorney-in-Fact

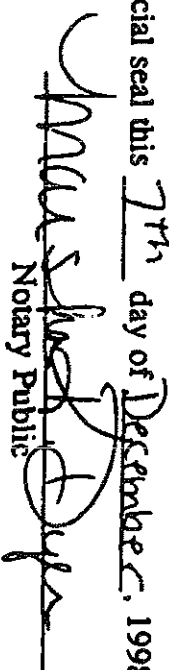
STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bryce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bryce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.

WITNESS my hand and official seal this 7<sup>th</sup> day of December, 1998.

My Commission Expires:

11/8/2003

  
Notary Public

## EXHIBIT A

Lying and being in Providence Township, Mecklenburg County, North Carolina, being more particularly described as follows:

### Tract 1:

Being all of the real property as shown on map of Willowmere Parcel 3, Map 1 recorded in Map Book 29 at Page 353 in the Mecklenburg County Public Registry.

### Tract 2:

Being all of the real property as shown on map of Willowmere Parcel 3, Map 2 recorded in Map Book 29 at Page 354 in the Mecklenburg County Public Registry.

EXHIBIT B

TRACT 1

Lying and being in Providence Township, Mecklenburg County, North Carolina, being more particularly described as follows:

BEGINNING at an iron marking the rear common corner of the property of William J. Black and Dorothy C. Black (now or formerly) as described in deed recorded in Book 2215 at Page 209 in the Mecklenburg County Public Registry and the property of Thomas B. Huiet and Ruth K. Huiet (now or formerly) as described in deed recorded in Book 2374 at Page 500 in the Mecklenburg County Public Registry, which iron is also the rear common corner of Lots 8 and 9 in Block 2 of East Providence Estates as shown on map recorded in Map Book 9 at Page 357 in the Mecklenburg County Public Registry, and running thence from said Beginning Point with the rear lot lines of Lots 1 through 8 of East Providence Estates as described on map recorded in Map Book 9 at Page 357, the northeasterly terminus of the sixty foot public right of way Allenwood Road and the rear lot lines of Lots 8 through 15 in Block 1 of East Providence Estates as shown on map recorded in Map Book 9 at Page 357 in the Mecklenburg County Public Registry, N 39-12-00 W 2,427.47 feet to a stone in the rear lot line of the aforesaid Lot 8 in Block 1 of East Providence Estates as shown on map recorded in Map Book 9 at Page 357 in the Mecklenburg County Public Registry; thence continuing with the rear lot line of Lot 8 and the rear lot lines of Lots 3, 4, 6, and 7 in Block 1 of East Providence Estates as shown on map recorded in Map Book 9 at Page 357 in the Mecklenburg County Public Registry the following three courses and distances: (1) N 11-02-18 W 201.53 feet to an iron, (2) N 24-20-18 E 375.94 feet to iron, and (3) N 40-27-45 E 152.63 feet to an iron in the property line of Dwight Royal Hobbs and Sharon M. Hobbs (now or formerly) as described in deed recorded in Book 5997 at Page 798 in the Mecklenburg County Public Registry; thence with property line of the aforesaid Dwight Royal Hobbs and Sharon M. Hobbs property, the following two courses and distances: (1) S 45-05-45 E 20.0 feet to an iron, and (2) N 47-37-05 E 257.08 feet to an iron marking the southerly corner of the James T. Rembert and Faye S. Rembert property (now or formerly) as described in deed recorded in Book 4190 at Page 970 in the Mecklenburg County Public Registry; thence with the property lines of the aforesaid James

T. Rembert and Faye S. Rembert property the following two courses and distances: (1) N 47-37-05 E 133.51 feet to an iron, and (2) N 32-21-23 W 278.44 feet to an iron; thence N 10-15-17 E 33.21 feet to a point in the centerline of the public right of way of McKee Road (S.R. 3440); thence with the centerline of the aforesaid McKee Road the following ten courses and distances: (1) N 73-05-10 E 18.14 feet to a point, (2) with the arc of a circular curve to the right having a radius of 922.44, a chord bearing and distance of N 76-07-23 E 97.75 feet, and an arc distance of 97.79 feet to a point, (3) N 79-09-37 E 239.65 feet to a point, (4) with the arc of a circular curve to the right having a radius of 3,007.95 feet, a chord bearing and distance of N 80-52-27 E 179.92 feet, and arc distance of 179.95 feet to a point, (5) N 82-35-17 E 859.39 feet to a point, (6) with the arc of a circular curve to the left having a radius of 1,011.71 feet, a chord bearing and distance of N 75-51-07 E 237.34 feet, and an arc distance of 237.88 feet to a point, (7) N 69-06-57 E 260.08 feet to a point, (8) with the arc of a circular curve to the right having a radius of 5,432.60 feet, a chord bearing and distance of N 69-11-06 E 13.08 feet, and an arc distance of 13.08 feet to a point, (9) with the arc of a circular curve to the right having a radius of 5,432.60 feet, a chord bearing and distance of N 71-21-28 E 398.87 feet, and an arc distance of 398.96 feet to a point, (10) N 74-13-26 E 37.36 feet to a point in the centerline of the public right of way of Matthews-Weddington Road (S.R. 3468); thence with the aforesaid centerline of the right of way of Matthews-Weddington Road (S.R. 3468) the following four courses and distances: (1) with the arc of a circular curve to the right having a radius of 367.71 feet, a chord bearing and distance of S 25-05-59 E 67.75 feet, and an arc distance of 67.84 feet to a point, (2) S 19-48-51 E 69.33 feet to a point, and (3) with the arc of a circular curve to the right having a radius of 1,642.77 feet, a chord bearing and distance of S 17-12-00 E 149.84 feet, and an arc distance of 149.90 feet to a point, and (4) S 14-35-10 E 319.47 feet to a point; thence leaving the centerline of the aforesaid public right of way of Matthews-Weddington Road and running with the property lines of C. Eugene McCartha (now or formerly) as described in deed recorded in Book 2961 at Page 238 in the Mecklenburg County Public Registry the following two courses and distances: (1) S 79-01-01 W 240.79 feet to an axle, and (2) S 26-11-52 E 659.00 feet to a railroad spike in the centerline of the aforesaid public right of way Matthews-Weddington Road (S.R. 3468); thence with the centerline of aforesaid right of way of Matthews-Weddington Road (S.R. 3468) the following eleven courses and distances: (1) with the arc of a circular curve to the right having a radius of 448.77 feet, a chord bearing and distance of S 23-17-14 W 97.06 feet, and

an arc distance of 97.25 feet to a point, (2) S 29-29-44 W 196.98 feet to a point, (3) with the arc of a circular curve to the left having a radius of 1,174.23 feet, a chord bearing and distance of S 27-03-26 W 99.91 feet, and an arc distance of 99.94 feet to a point, (4) S 24-37-09 W 34.23 feet to a point, (5) with the arc of a circular curve to the left having a radius of 910.58 feet, a chord bearing and distance of S 19-54-38 W 149.49 feet, and an arc distance of 149.66 feet to a point, (6) S 15-12-07 W 54.53 feet to a point, (7) with the arc of a circular curve to the left having a radius of 362.50 feet, a chord bearing and distance of S 10-28-16 W 59.80 feet, and an arc distance of 59.86 feet to a point, (7) S 05-44-25 W 30.64 feet to a point; (8) with the arc of a circular curve to the left having a radius of 987.44 feet, a chord bearing and distance of S 02-50-29 W 99.87 feet, and an arc distance of 99.91 feet to a point, (9) S 00-03-26 E 207.12 feet to a point, (10) with the arc of a circular curve to the left having a radius of 2,837.72 feet, a chord bearing and distance of S 00-39-47 E 60.00 feet, and an arc distance of 60.00 feet to a point, and (11) S 01-16-07 E 98.33 feet to a point; thence leaving the aforesaid centerline of the right of way Matthews-Weddington Road and running with the northwesterly property line of the Charles Wayne Caldwell property (now or formerly) as described in deed recorded in Book 5261 at Page 346 in the Mecklenburg County Public Registry, S 41-22-52 W 1,006.76 feet to an iron marking the northwesterly corner of the aforesaid William J. Black and Dorothy C. Black property (now or formerly) as described in deed recorded in Book 2215 at Page 209 in the Mecklenburg County Public Registry; thence with the northwesterly property line of the aforesaid William J. Black and Dorothy C. Black property, S 41-27-53 W 615.28 feet to the Point and Place of Beginning, and containing 145.315 total acres as shown on Boundary Survey by Yarbrough-Williams & Associates, Inc., dated May 8, 1997, last revised July 23, 1997, to which survey reference is made for a more particular description of the property.

#### LESS AND EXCEPT

Tract 1: Being all of the real property as shown on map of Willowmere Parcel 3, Map 1 recorded in Map Book 29 at Page 353 in the Mecklenburg County Public Registry.

Tract 2: Being all of the real property as shown on map of Willowmere Parcel 3, Map 2 recorded in Map Book 29 at Page 354 in the Mecklenburg County Public Registry.

## TRACT 2

Lying and being in the City of Charlotte, Mecklenburg County, North Carolina, being more particularly described as follows:

BEGINNING at an iron pin the northerly margin of the public right of way of McKee Road (S.R. 3440) said iron pin marking the southerly corner of the Jane McKee Alexander property (now or formerly) as described in deed recorded in Book 1895 at Page 526 in the Mecklenburg County Public Registry, said iron also being located S 75-41-03 W 3,303.88 feet from NCGS "Massey" NAD 83 DATUM N=488,727.1917 feet, E=1,482,522.4416 feet and ELEV. 757.87 feet and running thence from said Beginning Point with the northerly margin of the aforesaid right of way of McKee Road the following three courses and distances: (1) with the arc of a circular curve to the right having a radius of 993.12 feet, a chord bearing and distance of S 71-47-30 W 174.38 feet, and an arc distance of 174.61 feet to a point, (2) S 79-16-25 W 234.38 feet to a point and (3) S 76-49-42 W 425.71 feet to an iron in the southeasterly margin of the property NCDOT (now or formerly) as described in deed recorded in Book 7248 at Page 792 in the Mecklenburg County Public Registry; thence with aforesaid southeasterly line of the NCDOT property the following three courses and distances: (1) N 33-52-31 E 95.74 feet to a point, (2) with a curve to the right with a spiral chord and distance of N 34-07-28 E 297.71 feet to a point, and (3) with the arc of a circular curve to the right having a radius of 11,284.16 feet, a chord bearing and distance of N 36-18-17 E 661.38 feet, and an arc distance of 661.48 feet to an iron in the southwesterly property line of the aforesaid Jane McKee Alexander property; thence with the southwesterly line of the aforesaid Jane McKee Alexander property, S 16-38-50 E 692.85 feet to the Point and Place of Beginning, and containing 6.884 acres, all as shown on Boundary Survey by Yarbrough-Williams & Associates, Inc., dated June 5, 1997, to which survey reference is hereby made for a more particular description of the property.

## TRACT 3

All real property within a one mile radius of TRACTS 1 and 2 above.

AT WILLOWMERE (PARCEL 1)

Declarant, 1998 by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant" and TGC, L.L.C., a Georgia limited liability company, referred to in this instrument as "TGC";

**WITNESSETH:**

WHEREAS, Declarant and TGC are the owners of the real property shown on the map of Willowmere Parcel 1 recorded in Map Book 29 at pages 508 and 509 and revised in Map Book 29 at Pages 591 and 592 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 1"), which is a part of the exclusive residential community known as "Willowmere," and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the exclusive residential community of Willowmere was created and certain general covenants, conditions and restrictions were thereby imposed on the property described in Exhibit A of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was incorporated under the laws of the State of North Carolina, as a non-profit corporation for the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and easement areas within Willowmere, and for the purpose of preserving, protecting and enhancing the values and amenities of property located within said community, and for enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the unilateral privilege and option of subjecting all or any portion of the property described on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant and TGC desire to incorporate Willowmere Parcel 1 within the property subject to the Declaration and Declarant and TGC have deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 1 for the benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 1.



NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant and TGC do hereby subject Willowmere Parcel 1 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and do hereby place and impose on Willowmere Parcel 1 the following additional conditions and restrictions:

1. Residential Use. All Lots shall be used for residential purposes only.
2. Building Line Requirements. The minimum set back lines which may be shown on any recorded plat depicting Lots are necessarily intended to create uniformity of setback. They are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment of the Common Area. The minimum set back lines shall only apply to the main dwelling on a Lot and all steps, stoops, porches and decks shall not be subject to the minimum set back lines. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of the building line requirements.
3. Building Requirements. No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 800 square feet in the case of a one-story building or 1000 square feet in the case of a two-story building.
4. Wall, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as may later be approved by the Architectural Control Committee.
5. Lawn Maintenance. Notwithstanding any provisions of the Declaration to the contrary, the Association shall be responsible for the lawn maintenance of all Willowmere Parcel 1 Lots. This shall be considered a Parcel Expense for The Park at Willowmere (Parcel 1), and a Parcel Assessment to fund this Parcel Expense shall be levied equally against all Lots in this Parcel. Easements for ingress, egress and regress over the Willowmere Parcel 1 Lots are hereby granted to the Association and it's agents in order that it may carry out it's lawn maintenance responsibility for this Parcel's Lots.
6. Designation of The Park at Willowmere (Parcel 1) as Parcel. All Lots located within The Park at Willowmere (Parcel 1), including the Lots shown on map

recorded in Map Book 29 at Pages 508 and 598 and revised in Map Book 29 at Pages 591 and 592 in the Mecklenburg County Public Registry, shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

7. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

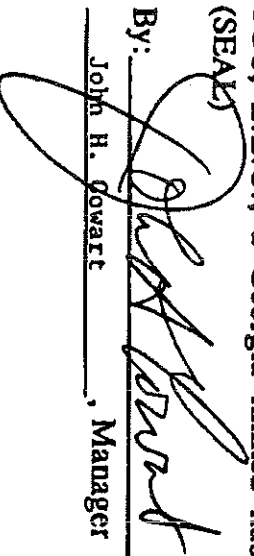
8. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company have caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By:  (SEAL)  
Thomas W. Bruce, Attorney-in-Fact

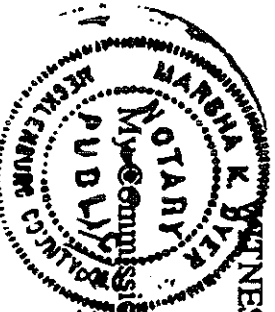
TGC, L.L.C., a Georgia limited liability company (SEAL)

By:  (SEAL)  
John H. Gewart, Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, MARSHA K. DYER, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.



MARSHA K. DYER  
Notary Public

STATE OF ~~NORTH CAROLINA~~ GEORGIA

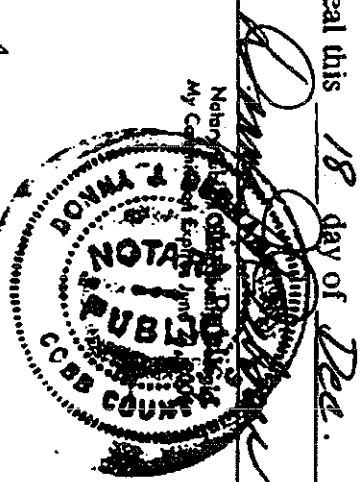
COUNTY OF WINNETT

I, DONNA J. DEBUAR, a Notary Public of the County and State aforesaid, certify that JOHN H. COWART, Manager of TGC, L.L.C., a Georgia limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this 18 day of Dec., 1998.

My Commission Expires:

6-21-2001



## CONSENT AND JOINDER

WHEREAS, NationsBank, N.A. (hereinafter referred to as "Beneficiary"), is the owner and holder of certain obligations secured by Deed of Trust recorded in Book 9243 at Page 7 and rerecorded in Book 9300 at Page 782 in the Mecklenburg County Public Registry and TIM, Inc. is Trustee under said Deed of Trust (hereinafter referred to a "Trustee");

WHEREAS, Trustee and Beneficiary have agreed, at the request of Pulte Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company, to consent to the provisions of the attached Supplementary Declaration of Covenants, Conditions and Restrictions for The Park at Willowmere (Parcel 1) (hereinafter referred to as the "Supplementary Declaration").

NOW, THEREFORE, Trustee and Beneficiary, by joining herein, hereby:

- (1) Consent to the execution, delivery and recordation of the Supplementary Declaration;
- (2) Subordinate the lien of the aforesaid Deed of Trust to the provisions of the Supplementary Declaration with the same effect as if the Supplementary Declaration had been executed, delivered and recorded prior to the execution, delivery and recordation of the Deed of Trust; and
- (3) Agree, notwithstanding the foreclosure of the Deed of Trust (or a conveyance in lieu thereof), that the Supplementary Declaration and all rights therein described shall continue unabated and in full force and effect.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have hereunto set their hands and seals as of this 18 day of December, 1998.



TRUSTEE:

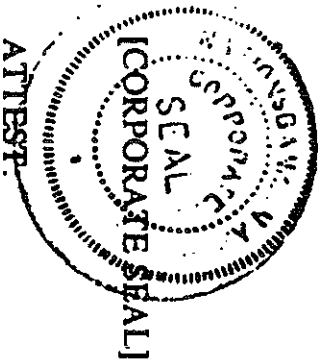
TIM, INC.

By: Henry C. Ayers Jr. *HCA*

Severe Vice President

ATTEST:

Annada B. Davis  
Secretary



**BENEFICIARY:**

NATIONS BANK, N.A.

By: Johnny C. Ayers SN  
Senior Vice President

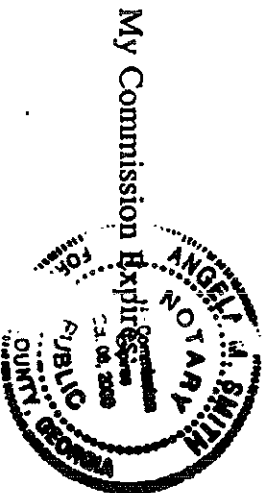
Angela Smith  
Secretary

STATE OF Georgia  
COUNTY OF Forsyth

This 18th day of December, 1998, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry Dyke, who, being duly sworn, says that he is Senior Vice President of NATIONSBANK, INC., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said ~~Secretary~~ Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 18th day of December, 1998.

Angela Smith  
Notary Public



My Commission Expires 21.06.2000

STATE OF Georgia  
COUNTY OF Forsyth

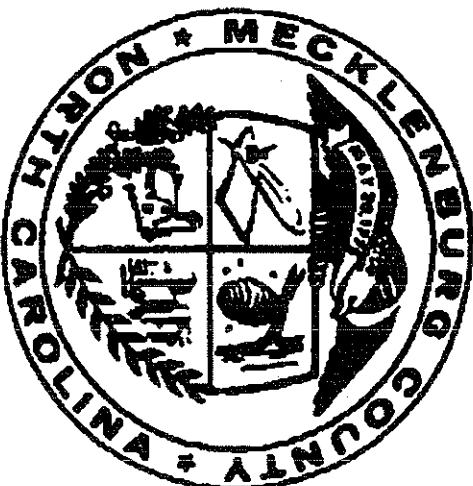
This 18 day of December, 1998, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry J. Lee, who, being duly sworn, says that he is Senior Vice President of NATIONSBANK, N.A., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said ~~secretary~~ Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 18 day of December, 1998.

Angela M. Smith  
Notary Public

My Commission Expires:





JUDITH A. GIBSON  
REGISTER OF DEEDS , MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 12/22/1998 10:46 AM

Book: RE 10132 Page: 159-166

Document No.: 1998200266

RESTR 8 PGS \$20.00

Deputy: REBECCA MCGOWAN

State of North Carolina, County of Mecklenburg

The foregoing certificate of MARSHA K. DYER, DONNA J. DEBNAR, ANGELA M. SMITH Notaries are certified to be correct. This 22 ND of December 1998

JUDITH A. GIBSON, REGISTER OF DEEDS BY:  
Deputy/Assistant Register of Deeds



1998200266

FOR REGISTRATION 3/01/14 A C1850N  
REGISTER OF DEEDS  
MECKLENBURG COUNTY NC  
1998 DEC 30 11 51 AM  
BOOK 10149 PAGE 972-980 FEE \$22.00  
INSTRUMENT # 1998-03341

Drawn by and mail to: Horack, Talley, Pharr & Lowndes, P.A.  
Register of Deeds Box 74 (HDP)

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE MANOR  
AT WILLOWMERE TOWNHOMES (Parcel 4)

THIS SUPPLEMENTARY DECLARATION made as of this 29<sup>th</sup> day of  
December, 1998 by PULTE HOME CORPORATION, a Michigan corporation,  
referred to in this instrument as "Declarant";

WITNESSETH.

WHEREAS, Declarant is the owner of the real property shown on the map of  
Willowmere Parcel 4, Map 2 recorded in Map Book 30 at Page 65 in the office of the  
Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 4, Map  
2"), which is a part of the exclusive residential community known as "Willowmere," and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in  
Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the  
exclusive residential community of Willowmere was created and certain general covenants,  
conditions and restrictions were thereby imposed on the property described in Exhibit A  
of the Declaration, and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was  
incorporated under the laws of the State of North Carolina, as a non-profit corporation for  
the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and  
easement areas within Willowmere, and for the purpose of preserving, protecting and  
enhancing the values and amenities of property located within said community, and for  
enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the  
unilateral privilege and option of subjecting all or any portion of the property described  
on Exhibit B attached to the Declaration to the provisions of the Declaration and the  
jurisdiction of the Association,

WHEREAS, Declarant desires to incorporate Willowmere Parcel 4, Map 2 within  
the property subject to the Declaration and Declarant has deemed it advisable to place and  
impose additional conditions and restrictions on Willowmere Parcel 4, Map 2 for the



benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 4, Map 2.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject Willowmere Parcel 4, Map 2 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and does hereby place and impose on Willowmere Parcel 4, Map 2 the following additional conditions and restrictions:

1. Exclusive Common Areas. All Common Areas in Willowmere Parcel 4, Map 2 and the remainder of Common Area in The Manor at Willowmere Townhomes (Parcel 4) are designated Exclusive Common Areas for the exclusive use and benefit of the Owners of Lots in The Manor at Willowmere Townhomes
2. Maintenance. Notwithstanding any provision in the Declaration to the contrary, the Association and Owner responsibilities are as follows
  - (a) Association's Responsibility. The Association shall maintain and keep in good repair the Exclusive Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and grass areas, paving and other improvements situated on the Exclusive Common Area. The Association shall also maintain and keep in good repair all landscaping and grass areas within the boundaries of Lots, except each Owner of a Lot which has a courtyard or private patio area shall be responsible for the maintenance of the landscaping and grass areas within the boundaries of the courtyard or private patio area. The Association shall maintain and keep in good repair all paved or concrete walkways, driveways and parking areas, roads and streets not accepted by the appropriate governmental authorities for maintenance, water, sewer, gas and electricity lines, even though located partially or wholly within the boundaries of a Lot. The Association shall maintain and keep in good repair all sewer pipes or facilities which serve more than one (1) Lot, whether located within or without a Lot's boundaries. The Association shall be responsible for the cost for all trash collection services and all water and sewer services for the Lots. The Association shall maintain, repair and replace the roof, gutters and down spouts for each Lot.
  - (b) Owner's Responsibility. Except as provided in Paragraph 2(a) above, all maintenance and repair of the improvements on the Lot shall be the responsibility of the Owner thereof. This shall include, but is not limited to, providing exterior maintenance upon Lot improvements as follows: paint,

stain, repair, replace, and care for chimneys, entry doors, glass and their appurtenant hardware and all exterior building surfaces. The type or style of entry doors, glass and their appurtenant hardware shall not be replaced or changed by a Lot Owner without express written permission of the Association.

3. Parcel Expense. All costs and expenses associated with the Association's responsibilities in Paragraph 2(a) above shall be considered a Parcel Expense for Willowmere Parcel 4. Map 2 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) and a Parcel Assessment to fund this Parcel Expense shall be levied equally against all Lots in this Parcel. Easements for ingress, egress and regress over Willowmere Parcel 4, Map 2 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) are hereby granted to the Association and it's agents in order that it may carry out the Association's responsibilities set forth in Paragraph 2(a) above.

4. Designation of The Manor at Willowmere Townhomes (Parcel 4) as Parcel All Lots located within Willowmere Parcel 4, Map 2, shown on map recorded in Map Book 30 at Page 65 in the Mecklenburg County Public Registry shall be a part of The Manor at Willowmere Townhomes (Parcel 4) which shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

5. Building Requirements. Minimum setback lines which may be shown on any recorded plat of Willowmere Parcel 4, Map 2 are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation and to insure each Owner the greatest benefit and enjoyment of the Exclusive Common Area. Declarant reserves the right to select the precise site location of each structure on each Lot and to arrange the same in such manner and for such reasons as the Declarant, deems sufficient, provided, however, such determination shall be consistent with the provisions set forth herein. Any building or structure or any part thereof located on any Lot may abut upon and be incorporated into any party wall, and there shall be no sideline setback requirement as to Lot sidelines upon which party walls are constructed. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of said building line requirements.

No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 750 square feet, and any dwelling shall abut, or be built so as to abut, any

dwelling on any adjoining lot as in the same manner as originally constructed by Declarant.

6. Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as my later be approved by the Architectural Control Committee.

7. Common Utility and Conduit Easement. All pipes, wires, conduits, water supply and sewer lines, public utility lines (electricity, telephone and gas) and cable television lines located within a residence on a Lot and serving only such residence shall be owned, maintained, repaired and replaced by the Owner of such residence. Every Owner shall have an easement in common with the Owners of other residences on Lots to maintain and use all pipes, wires, conduits, water supply and sewer lines, public utility lines and cable television lines located within other residences on Lots and servicing such Owner's residence. Each residence on a Lot shall be subject to an easement in favor of the Owners of other residences on Lots to maintain and use the pipes, wires, conduits, water supply, sewer systems and public utility lines and cable television lines.

The Association shall have the right of access to each residence on a Lot for the maintenance, repair, or replacement of any pipes, wires, conduits, water supply, sewer systems, public utility lines or cable television lines located in any residence on a Lot which also serves one or more other residences on other Lots. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement shall be a common expense which shall be the responsibility of the Association, except that, if such repair, maintenance or replacement is occasioned by a negligent or willful act or omission of a Owner and/or Occupant, it shall be considered a special expense allocable to the responsible Owner(s) and such cost shall be added to the assessment of such Owner(s) and, as part of that assessment, shall constitute a lien on the Owner(s)' Lot to secure the payment thereof.

The Association shall have an easement over the exteriors of all residences on the Lots for the placement, maintenance, repair and replacement of utility banks, meters and telephone pedestals

8. Party Walls

(a) Declaration. Each wall which is built as a part of the original construction of the improvements made on the Lots and which is placed on the dividing line between any two (2) Lots shall be deemed a party wall for the benefit of the Owner of said Lots and shall be used for the joint purpose of the dwellings separated thereby.

(b) Ownership and Maintenance. Without specific reference in the deed of conveyance of a Lot, conveyance of each Lot separated by any other Lot by a party wall shall be deemed to include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot, together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be deemed reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

(c) Applicable Law. The laws and precedents of the State of North Carolina in regard to party walls, and of liability for property damage due to negligence or willful acts or omissions shall apply hereto.

9

Insurance.

(a) Exclusive Common Area. It shall be the duty of the Association to obtain and maintain in effect at all times.

- (i) a policy of casualty insurance on all improvements located on the Exclusive Common Area; and
- (ii) a comprehensive policy of public liability insurance.

Each such insurance policy shall have such limits of coverage, and provide for such deductibles, as shall be determined by the Board of Directors.

(b) Lots. The owner of each Lot shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of such Lot, on a replacement cost basis in an amount of not less than on hundred percent (100%) of the insurable value, based upon replacement costs, of the same.

10 Damage and Destruction.

(a) Exclusive Common Area. All damage that shall occur to any improvements located on any Exclusive Common Area on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Exclusive Common Area shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association

(b) Lots In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Lot improvements, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any improvements on Lots shall be substantially in accordance with the plans and specifications for such damaged or destroyed Lot improvement prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the Owner of the Lot improvement which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed Lot improvement shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The Owner of any Lot improvement which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this paragraph shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this paragraph.

11 Roads. In the event any roads designated on recorded plats of any portion of Willowmere Parcel 4, Map 2 which are dedicated by Declarant for public use are not subsequently accepted by the appropriate governmental authorities for maintenance, Declarant reserves the right to convey by deed to the Association title to that portion of the Property comprising such roads, and each Owner, by his or her acceptance of a deed to a Lot, and the Association, by its acceptance of the deed to the Exclusive Common Area, acknowledges such reservation and the right of Declarant to transfer title to such portion of the Property comprising such roads, and the maintenance obligations associated therewith, to the Association. Upon any conveyance by Declarant to the Association pursuant to this paragraph, the property so conveyed shall constitute Exclusive Common Area under the Declaration

12. Parking. The following provisions shall apply to parking of automobiles and other vehicles on the Exclusive Common Area:

(a) *Ownership of a Lot shall entitle the Owner thereof to the exclusive use of certain automobile parking spaces located on the Exclusive Common Area as designated by the Declarant and as amended by rules and regulations promulgated by the Board of Directors.*

(b) *Declarant shall designate, and after all Class B Lots shall cease to exist and be converted to Class A Lots, the Board of Directors shall designate, parking spaces on the Exclusive Common Area for the exclusive use of guests and invitees of the Owners and such guests and invitees may use such parking spaces while visiting Owners for a period not to exceed one (1) week in time. No Owner shall park any automobile or other vehicle in the parking spaces designated for use by guests and invitees.*

(c) *There shall be no parking upon any Lot or the Exclusive Common Area of any commercial vehicle (this shall not include pickup trucks or vans which are specifically allowed), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft or boat trailer.*

(d) *The Board of Directors of the Association will make such reasonable rules and regulations as it may elect with respect to the parking of vehicles on the Lot or the Exclusive Common Area to implement, amplify or clarify the foregoing without the consent of the members of the Association*

13. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

14. Covenants Running with Land These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation has caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By  (SEAL)  
Thomas W. Bruce, Attorney-in-Fact

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

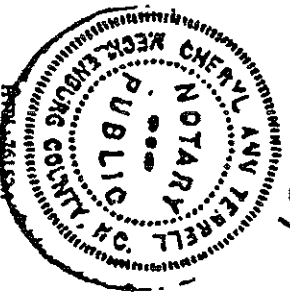
I, *Cheryl Ann Terrell*, a Notary Public for said County and State, do hereby certify that Thomas W Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation

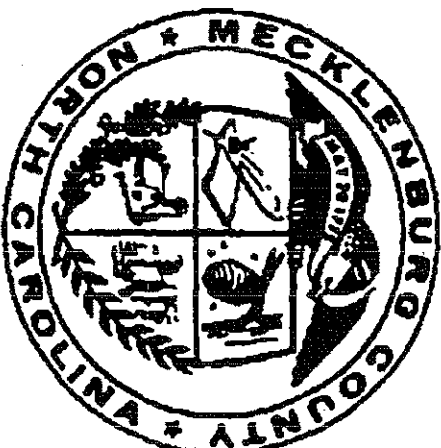
WITNESS my hand and official seal this *29<sup>th</sup>* day of *December*, 1998.

My Commission Expires.

*Cheryl Ann Terrell*  
Notary Public

*Sept. 17, 2001*





JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 12/30/1998 11:03 AM

Book RE 10148 Page. 972-980

Document No.: 1998203341

RESTR 9 PGS \$22.00

Deputy: NANCY JONES

State of North Carolina, County of Mecklenburg

The foregoing certificate of CHERYL ANN TERRELL Notary is certified to be correct. This 30TH of December 1998

JUDITH A. GIBSON, REGISTER OF DEEDS BY: *Nancy Jones*  
Deputy/Assistant Register of Deeds



1998203341



Drawn by and mail to: Horack, Talley, Pharr & Lowmude, P.A. (HDP)  
Register of Deeds Box 76

FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS, NC  
MECKLENBURG COUNTY, NC  
1999 MAY 10 03:48 PM  
BOOK: 10462 PAGE: 89-90 RECEIVED  
INSTRUMENT # 1999050416

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE ENCLAVE  
AT WILLOWMERE (PARCEL 3)

THIS SUPPLEMENTARY DECLARATION made as of this 14<sup>th</sup> day of  
April, 1999 by PULTE HOME CORPORATION, a Michigan corporation,  
referred to in this instrument as "Declarant" and TGC, L.L.C., a Georgia limited liability  
company, referred to in this instrument as "TGC";

WITNESSETH:

WHEREAS, Declarant and TGC are the owners of the real property shown on the  
map of Willowmere Parcel 3, Map 7 recorded in Map Book 29 at Pages 585 in the office  
of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel  
3, Map 7"), the real property shown on the map of Willowmere Parcel 3, Map 8 recorded  
in Map Book 29 at Page 586 in the office of the Register of Deeds for Mecklenburg  
County, North Carolina ("Willowmere Parcel 3, Map 8"), and the real property shown on  
the map of Willowmere Parcel 3, Map 9 recorded in Map Book 29 at Page 587 in the  
office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere  
Parcel 3, Map 9") which are a part of the exclusive residential community known as  
"Willowmere;" and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in  
Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the  
exclusive residential community of Willowmere was created and certain general covenants,  
conditions and restrictions were thereby imposed on the property described in Exhibit A  
of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was  
incorporated under the laws of the State of North Carolina, as a non-profit corporation for  
the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and  
easement areas within Willowmere, and for the purpose of preserving, protecting and  
enhancing the values and amenities of property located within said community, and for  
enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the  
unilateral privilege and option of subjecting all or any portion of the property described

on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant and TGC desire to incorporate Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9 within the property subject to the Declaration and Declarant and TGC have deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9 for the benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant and TGC do hereby subject Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and do hereby place and impose on Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9 the following additional conditions and restrictions:

1. Residential Use. All Lots shall be used for residential purposes only.
2. Building Line Requirements. The minimum set back lines which may be shown on any recorded plat depicting Lots are necessarily intended to create uniformity of setback. They are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment of the Common Area. The minimum set back lines shall only apply to the main dwelling on a Lot and all steps, stoops, porches and decks shall not be subject to the minimum set back lines. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of the building line requirements.
3. Building Requirements. No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports ) of less than 800 square feet in the case of a one-story building or 1000 square feet in the case of a two-story building.
4. Wall, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling

located on said Lot, or as may later be approved by the Architectural Control Committee.

5. Designation of The Enclave at Willowmere (Parcel 3) as Parcel. All Lots located within The Enclave at Willowmere (Parcel 3), including the Lots in Willowmere Parcel 3, Map 7, Willowmere Parcel 3, Map 8 and Willowmere Parcel 3, Map 9, shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

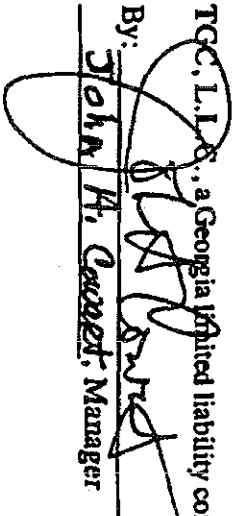
6. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

7. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company have caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

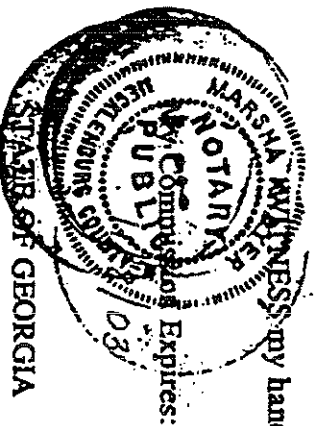
By:  (SEAL)  
Thomas W. Brace, Attorney-in-Fact

TGC, L.L.C., a Georgia limited liability company (SEAL)  
By:  (SEAL)  
John H. Gannett, Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.



Marsha K. Dyer  
Notary Public

19<sup>th</sup> day of April, 1999.

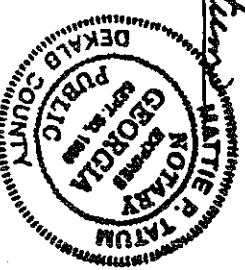
COUNTY OF FULTON

I, Mattie P. Tatum, a Notary Public of the County and State aforesaid, certify that John H. Covert, Manager of TGC, L.L.C., a Georgia limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this 28<sup>th</sup> day of April, 1999.

My Commission Expires:

Mattie P. Tatum  
Notary Public



## CONSENT AND JOINDER

WHEREAS, NationsBank, N.A. (hereinafter referred to as "Beneficiary"), is the owner and holder of certain obligations secured by Deed of Trust recorded in Book 9243 at Page 7 and rerecorded in Book 9300 at Page 782 in the Mecklenburg County Public Registry and TIM, Inc. is Trustee under said Deed of Trust (hereinafter referred to a "Trustee");

WHEREAS, Trustee and Beneficiary have agreed, at the request of Pulte Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company, to consent to the provisions of the attached Supplementary Declaration of Covenants, Conditions and Restrictions for The Enclave Willowmere (Parcel 3) (hereinafter referred to as the "Supplementary Declaration").

NOW, THEREFORE, Trustee and Beneficiary, by joining herein, hereby:

- (1) Consent to the execution, delivery and recordation of the Supplementary Declaration;
- (2) Subordinate the lien of the aforesaid Deed of Trust to the provisions of the Supplementary Declaration with the same effect as if the Supplementary Declaration had been executed, delivered and recorded prior to the execution, delivery and recordation of the Deed of Trust; and
- (3) Agree, notwithstanding the foreclosure of the Deed of Trust (or a conveyance in lieu thereof), that the Supplementary Declaration and all rights therein described shall continue unabated and in full force and effect.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have hereunto set their hands and seals as of this 19 day of April, 1999.



TRUSTEE:  
TIM, INC.

By [Signature]  
President

ATTEST:  
[Signature]  
Asst. Secretary

**BENEFICIARY:**

NATIONSBANK, N.A.

[CORPORATE SEAL]

ATTEST:

Anthony A. Call  
Asst Secretary

STATE OF Georgia

COUNTY OF Fulton

By: Henry A. Bryant Sr  
Sr Vice President



This 11 day of April, 1999, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry A. Bryant Sr., who, being duly sworn, says that he is Sr. Vice President of TIM, INC., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said Sr. Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 11 day of April, 1999.

My Commission Expires



Henry A. Bryant Sr  
Notary Public

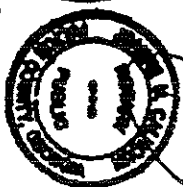
STATE OF Georgia  
COUNTY OF Fulton

This 19 day of April, 1999, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry A. Dyer, who, being duly sworn, says that he is Sr. Vice President of NATIONS BANK, N.A., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said Sr. Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 19 day of April, 1999.

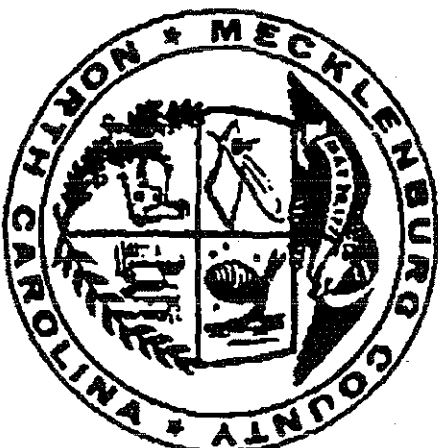
  
Notary Public

My Commission Expires



My Commission Expires  
October 27, 2002

My Commission Expires  
October 27, 2002



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 05/10/1999 03:48 PM

Book: RE 10462 Page: 89-96

Document No.: 1999083845

RESTR 8 PGS \$20.00

Recorder: LYNETTE FEELY

State of North Carolina, County of Mecklenburg

The foregoing certificate of MARSHA K. DYER, MATTIE P. TATUM, JEANNE M. CALHOUN Notaries are certified to be correct. This 10TH of May 1999

JUDITH A. GIBSON, REGISTER OF DEEDS BY:  
Deputy/Assistant Register of Deeds

*Lynette Feely*



1999083845



FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS, NC  
MECKLENBURG COUNTY, NC  
1999 APR 12 05:46 EST \$22.00  
BOOK: 10487 PAGE: 386-529506553  
INSTRUMENT # 199906553

Drawn by and mail to: Horack, Talley, Pharr & Lowndes, P.A. (BDP)  
Register of Deeds Box 74

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE MANOR  
AT WILLOWMERE TOWNHOMES (Parcel 4)

THIS SUPPLEMENTARY DECLARATION made as of this 19<sup>th</sup> day of April, 1999 by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on the map of Willowmere Parcel 4, Map 3 recorded in Map Book 30 at Page 553 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 4, Map 3") and the real property shown on map of Willowmere Parcel 4, Map 4 recorded in Map Book 30 at Page 739 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 4, Map 4"), which are a part of the exclusive residential community known as "Willowmere," and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the exclusive residential community of Willowmere was created and certain general covenants, conditions and restrictions were thereby imposed on the property described in Exhibit A of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was incorporated under the laws of the State of North Carolina, as a non-profit corporation for the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and easement areas within Willowmere, and for the purpose of preserving, protecting and enhancing the values and amenities of property located within said community, and for enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the unilateral privilege and option of subjecting all or any portion of the property described on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant desires to incorporate Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 within the property subject to the Declaration and Declarant has deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 for the benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and does hereby place and impose on Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 the following additional conditions and restrictions:

1. Exclusive Common Areas. All Common Areas in Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 and the remainder of Common Area in The Manor at Willowmere Townhomes (Parcel 4) are designated Exclusive Common Areas for the exclusive use and benefit of the Owners of Lots in The Manor at Willowmere Townhomes (Parcel 4).

2. Maintenance. Notwithstanding any provision in the Declaration to the contrary, the Association and Owner responsibilities are as follows:

(a) Association's Responsibility. The Association shall maintain and keep in good repair the Exclusive Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and grass areas, paving and other improvements situated on the Exclusive Common Area. The Association shall also maintain and keep in good repair all landscaping and grass areas within the boundaries of Lots, except each Owner of a Lot which has a courtyard or private patio area shall be responsible for the maintenance of the landscaping and grass areas within the boundaries of the courtyard or private patio area. The Association shall maintain and keep in good repair all paved or concrete walkways, driveways and parking areas, roads and streets not accepted by the appropriate governmental authorities for maintenance, water, sewer, gas and electricity lines, even though located partially or wholly within the boundaries of a Lot. The Association shall maintain and keep in good repair all sewer pipes or facilities which serve more than one (1) Lot, whether located within or without a Lot's boundaries. The Association shall be responsible for the cost for all trash collection services and all water and sewer services for the

Lots. The Association shall maintain, repair and replace the roof, gutters and down spouts for each Lot.

(b) Owner's Responsibility. Except as provided in Paragraph 2(a) above, all maintenance and repair of the improvements on the Lot shall be the responsibility of the Owner thereof. This shall include, but is not limited to, providing exterior maintenance upon Lot improvements as follows: paint, stain, repair, replace, and care for chimneys, entry doors, glass and their appurtenant hardware and all exterior building surfaces. The type or style of entry doors, glass and their appurtenant hardware shall not be replaced or changed by a Lot Owner without express written permission of the Association.

3. Parcel Expense. All costs and expenses associated with the Association's responsibilities in Paragraph 2(a) above shall be considered a Parcel Expense for Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) and a Parcel Assessment to fund this Parcel Expense shall be levied equally against all Lots in this Parcel. Easements for ingress, egress and regress over Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) are hereby granted to the Association and it's agents in order that it may carry out the Association's responsibilities set forth in Paragraph 2(a) above.

4. Designation of The Manor at Willowmere Townhomes (Parcel 4) as Parcel. All Lots located within Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4, shown on map recorded in Map Book 30 at Page 553 in the Mecklenburg County Public Registry and Willowmere Parcel 4, Map 4, shown on map recorded in Map Book 30 at Page 739 in the Mecklenburg County Public Registry shall be a part of The Manor at Willowmere Townhomes (Parcel 4) which shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

5. Building Requirements. Minimum setback lines which may be shown on any recorded plat of Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation and to insure each Owner the greatest benefit and enjoyment of the Exclusive Common Area. Declarant reserves the right to select the precise site location of each structure on each Lot and to arrange the same in such manner and for such reasons as the Declarant,

deems sufficient, provided, however, such determination shall be consistent with the provisions set forth herein. Any building or structure or any part thereof located on any Lot may about upon and be incorporated into any party wall, and there shall be no sideline setback requirement as to Lot sidelines upon which party walls are constructed. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of said building line requirements.

No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 750 square feet, and any dwelling shall abut, or be built so as to abut, any dwelling on any adjoining lot as in the same manner as originally constructed by Declarant.

6. Walls, Fences, and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as my later be approved by the Architectural Control Committee.

7. Common Utility and Conduit Easement. All pipes, wires, conduits, water supply, and sewer lines, public utility lines (electricity, telephone and gas) and cable television lines located within a residence on a Lot and serving only such residence shall be owned, maintained, repaired and replaced by the Owner of such residence. Every Owner shall have an easement in common with the Owners of other residences on Lots to maintain and use all pipes, wires, conduits, water supply and sewer lines, public utility lines and cable television lines located within other residences on Lots and servicing such Owner's residence. Each residence on a Lot shall be subject to an easement in favor of the Owners of other residences on Lots to maintain and use the pipes, wires, conduits, water supply, sewer systems and public utility lines and cable television lines.

The Association shall have the right of access to each residence on a Lot for the maintenance, repair, or replacement of any pipes, wires, conduits, water supply, sewer systems, public utility lines or cable television lines located in any residence on a Lot which also serves one or more other residences on other Lots. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement shall be a common expense which shall be the responsibility of the Association, except that, if such repair, maintenance or replacement is occasioned by a negligent

or willful act or omission of a Owner and/or Occupant, it shall be considered a special expense allocable to the responsible Owner(s) and such cost shall be added to the assessment of such Owner(s) and, as part of that assessment, shall constitute a lien on the Owner(s)' Lot to secure the payment thereof.

The Association shall have an easement over the exteriors of all residences on the Lots for the placement, maintenance, repair and replacement of utility banks, meters and telephone pedestals.

8. Party Walls.

(a) Declaration. Each wall which is built as a part of the original construction of the improvements made on the Lots and which is placed on the dividing line between any two (2) Lots shall be deemed a party wall for the benefit of the Owner of said Lots and shall be used for the joint purpose of the dwellings separated thereby.

(b) Ownership and Maintenance. Without specific reference in the deed of conveyance of a Lot, conveyance of each Lot separated by any other Lot by a party wall shall be deemed to include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot, together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be deemed reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

(c) Applicable Law. The laws and precedents of the State of North Carolina in regard to party walls, and of liability for property damage due to negligence or willful acts or omissions shall apply hereto.

9. Insurance.

(a) Exclusive Common Area. It shall be the duty of the Association to obtain and maintain in effect at all times.

(i) a policy of casualty insurance on all improvements located on the Exclusive Common Area; and

(ii) a comprehensive policy of public liability insurance.

Each such insurance policy shall have such limits of coverage, and provide for such deductibles, as shall be determined by the Board of Directors.

(b) Lots. The owner of each Lot shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of such Lot, on a replacement cost basis in an amount of not less than on hundred percent (100%) of the insurable value, based upon replacement costs, of the same.

10. Damage and Destruction.

(a) Exclusive Common Area. All damage that shall occur to any improvements located on any Exclusive Common Area on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Exclusive Common Area shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association.

(b) Lots. In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Lot improvements, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any improvements on Lots shall be substantially in accordance with the plans and specifications for such damaged or destroyed Lot improvement prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the Owner of the Lot improvement which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed Lot improvement shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The Owner of any Lot improvement which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this paragraph shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this paragraph.

11. Roads. In the event any roads designated on recorded plats of any portion of Willowmere Parcel 4, Map 3 and Willowmere Parcel 4, Map 4 which are dedicated by Declarant for public use are not subsequently accepted by the appropriate governmental authorities for maintenance, Declarant reserves the right to convey by deed to the Association title to that portion of the Property comprising such

roads, and each Owner, by his or her acceptance of a deed to a Lot, and the Association, by its acceptance of the deed to the Exclusive Common Area, acknowledges such reservation and the right of Declarant to transfer title to such portion of the Property comprising such roads, and the maintenance obligations associated therewith, to the Association. Upon any conveyance by Declarant to the Association pursuant to this paragraph, the property so conveyed shall constitute Exclusive Common Area under the Declaration.

12. Parking. The following provisions shall apply to parking of automobiles and other vehicles on the Exclusive Common Area:

(a) Ownership of a Lot shall entitle the Owner thereof to the exclusive use of certain automobile parking spaces located on the Exclusive Common Area as designated by the Declarant and as amended by rules and regulations promulgated by the Board of Directors.

(b) Declarant shall designate, and after all Class B Lots shall cease to exist and be converted to Class A Lots, the Board of Directors shall designate, parking spaces on the Exclusive Common Area for the exclusive use of guests and invitees of the Owners and such guests and invitees may use such parking spaces while visiting Owners for a period not to exceed one (1) week in time. No Owner shall park any automobile or other vehicle in the parking spaces designated for use by guests and invitees.

(c) There shall be no parking upon any Lot or the Exclusive Common Area of any commercial vehicle (this shall not include pickup trucks or vans which are specifically allowed), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft or boat trailer.

(d) The Board of Directors of the Association will make such reasonable rules and regulations as it may elect with respect to the parking of vehicles on the Lot or the Exclusive Common Area to implement, amplify or clarify the foregoing without the consent of the members of the Association.

13. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

14. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically

extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation has caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By: [Signature] (SEAL)  
Thomas W. Bruce, Attorney-in-Fact

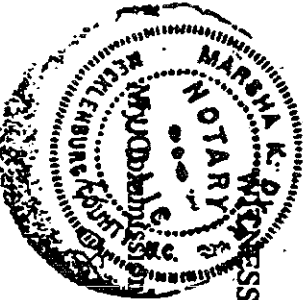
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Maisha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.

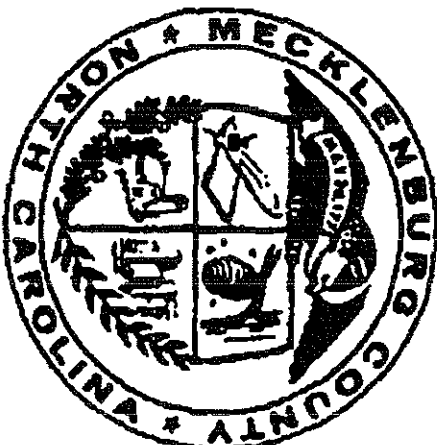
WITNESS my hand and official seal this 19<sup>th</sup> day of April, 1999.

Maisha K. Dyer  
Notary Public



03





JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 04/18/1999 04:26 PM

Book: RE 10407 Page: 906-914

Document No.: 1999068853

RESTR 9 PGS \$22.00

Recorder: DOROTHY MCCLELLAND

State of North Carolina, County of Mecklenburg

The foregoing certificate of MARSHA K. DYER Notary is certified to be correct. This 19TH of April 1999

JUDITH A. GIBSON, REGISTER OF DEEDS BY: *Dorothy McClelland*  
Deputy/Assistant Register of Deeds



1999068853

Drawn by and mail to: Horack, Talley, Pharr & Lowndes, P.A.  
Register of Deeds Box 74 (HDP)

FOR REGISTRATION JUDITH A. CIBSON  
REGISTER OF DEEDS  
MECKLENBURG COUNTY, NC  
1999 MAY 18 03:17 PM  
BOOK 10481 PAGE 282-290 FEE: \$72.00  
INSTRUMENT # 1999085206

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE MANOR  
AT WILLOWMERE TOWNHOMES (Parcel 4)

THIS SUPPLEMENTARY DECLARATION made as of this 14<sup>th</sup> day of May, 1999 by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on the map of Willowmere Parcel 4, Map 5 recorded in Map Book 31 at Page 79 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 4, Map 5"), which is a part of the exclusive residential community known as "Willowmere;" and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the exclusive residential community of Willowmere was created and certain general covenants, conditions and restrictions were thereby imposed on the property described in Exhibit A of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was incorporated under the laws of the State of North Carolina, as a non-profit corporation for the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and easement areas within Willowmere, and for the purpose of preserving, protecting and enhancing the values and amenities of property located within said community, and for enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the unilateral privilege and option of subjecting all or any portion of the property described on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant desires to incorporate Willowmere Parcel 4, Map 5 within the property subject to the Declaration and Declarant has deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 4, Map 5 for the

benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 4, Map 5.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject Willowmere Parcel 4, Map 5 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and does hereby place and impose on Willowmere Parcel 4, Map 5 the following additional conditions and restrictions:

1. Exclusive Common Areas . All Common Areas in Willowmere Parcel 4, Map 5 and the remainder of Common Area in The Manor at Willowmere Townhomes (Parcel 4) are designated Exclusive Common Areas for the exclusive use and benefit of the Owners of Lots in The Manor at Willowmere Townhomes.

2. Maintenance. Notwithstanding any provision in the Declaration to the contrary, the Association and Owner responsibilities are as follows:

- (a) Association's Responsibility. The Association shall maintain and keep in good repair the Exclusive Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and grass areas, paving and other improvements situated on the Exclusive Common Area. The Association shall also maintain and keep in good repair all landscaping and grass areas within the boundaries of Lots, except each Owner of a Lot which has a courtyard or private patio area shall be responsible for the maintenance of the landscaping and grass areas within the boundaries of the courtyard or private patio area. The Association shall maintain and keep in good repair all paved or concrete walkways, driveways and parking areas, roads and streets not accepted by the appropriate governmental authorities for maintenance, water, sewer, gas and electricity lines, even though located partially or wholly within the boundaries of a Lot. The Association shall maintain and keep in good repair all sewer pipes or facilities which serve more than one (1) Lot, whether located within or without a Lot's boundaries. The Association shall be responsible for the cost for all trash collection services and all water and sewer services for the Lots. The Association shall maintain, repair and replace the roof, gutters and down spouts for each Lot.

- (b) Owner's Responsibility. Except as provided in Paragraph 2(a) above, all maintenance and repair of the improvements on the Lot shall be the responsibility of the Owner thereof. This shall include, but is not limited to, providing exterior maintenance upon Lot improvements as follows: paint,

stain, repair, replace, and care for chimneys, entry doors, glass and their appurtenant hardware and all exterior building surfaces. The type or style of entry doors, glass and their appurtenant hardware shall not be replaced or changed by a Lot Owner without express written permission of the Association.

3. Parcel Expense. All costs and expenses associated with the Association's responsibilities in Paragraph 2(a) above shall be considered a Parcel Expense for Willowmere Parcel 4, Map 5 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) and a Parcel Assessment to fund this Parcel Expense shall be levied equally against all Lots in this Parcel. Easements for ingress, egress and regress over Willowmere Parcel 4, Map 5 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) are hereby granted to the Association and it's agents in order that it may carry out the Association's responsibilities set forth in Paragraph 2(a) above.

4. Designation of The Manor at Willowmere Townhomes (Parcel 4) as Parcel. All Lots located within Willowmere Parcel 4, Map 5, shown on map recorded in Map Book 31 at Page 79 in the Mecklenburg County Public Registry shall be a part of The Manor at Willowmere Townhomes (Parcel 4) which shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

5. Building Requirements. Minimum setback lines which may be shown on any recorded plat of Willowmere Parcel 4, Map 5 are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation and to insure each Owner the greatest benefit and enjoyment of the Exclusive Common Area. Declarant reserves the right to select the precise site location of each structure on each Lot and to arrange the same in such manner and for such reasons as the Declarant, deems sufficient, provided, however, such determination shall be consistent with the provisions set forth herein. Any building or structure or any part thereof located on any Lot may abut upon and be incorporated into any party wall, and there shall be no sideline setback requirement as to Lot sidelines upon which party walls are constructed. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of said building line requirements.

No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 750 square feet, and any dwelling shall abut, or be built so as to abut, any

dwelling on any adjoining lot as in the same manner as originally constructed by Declarant.

6. Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as my later be approved by the Architectural Control Committee.

7. Common Utility and Conduit Easement. All pipes, wires, conduits, water supply and sewer lines, public utility lines (electricity, telephone and gas) and cable television lines located within a residence on a Lot and serving only such residence shall be owned, maintained, repaired and replaced by the Owner of such residence. Every Owner shall have an easement in common with the Owners of other residences on Lots to maintain and use all pipes, wires, conduits, water supply and sewer lines, public utility lines and cable television lines located within other residences on Lots and servicing such Owner's residence. Each residence on a Lot shall be subject to an easement in favor of the Owners of other residences on Lots to maintain and use the pipes, wires, conduits, water supply, sewer systems and public utility lines and cable television lines.

The Association shall have the right of access to each residence on a Lot for the maintenance, repair, or replacement of any pipes, wires, conduits, water supply, sewer systems, public utility lines or cable television lines located in any residence on a Lot which also serves one or more other residences on other Lots. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement shall be a common expense which shall be the responsibility of the Association, except that, if such repair, maintenance or replacement is occasioned by a negligent or willful act or omission of a Owner and/or Occupant, it shall be considered a special expense allocable to the responsible Owner(s) and such cost shall be added to the assessment of such Owner(s) and, as part of that assessment, shall constitute a lien on the Owner(s)' Lot to secure the payment thereof.

The Association shall have an easement over the exteriors of all residences on the Lots for the placement, maintenance, repair and replacement of utility banks, meters and telephone pedestals.

8. Party Walls.

(a) Declaration. Each wall which is built as a part of the original construction of the improvements made on the Lots and which is placed on the dividing line between any two (2) Lots shall be deemed a party wall for the benefit of the Owner of said Lots and shall be used for the joint purpose of the dwellings separated thereby.

(b) Ownership and Maintenance. Without specific reference in the deed of conveyance of a Lot, conveyance of each Lot separated by any other Lot by a party wall shall be deemed to include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot, together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be deemed reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

(c) Applicable Law. The laws and precedents of the State of North Carolina in regard to party walls, and of liability for property damage due to negligence or willful acts or omissions shall apply hereto.

9. Insurance.

(a) Exclusive Common Area. It shall be the duty of the Association to obtain and maintain in effect at all times.

- (i) a policy of casualty insurance on all improvements located on the Exclusive Common Area; and
- (ii) a comprehensive policy of public liability insurance.

Each such insurance policy shall have such limits of coverage, and provide for such deductibles, as shall be determined by the Board of Directors.

(b) Lots. The owner of each Lot shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of

such Lot, on a replacement cost basis in an amount of not less than on hundred percent (100%) of the insurable value, based upon replacement costs, of the same.

10. Damage and Destruction.

(a) Exclusive Common Area. All damage that shall occur to any improvements located on any Exclusive Common Area on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Exclusive Common Area shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association.

(b) Lots. In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Lot improvements, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any improvements on Lots shall be substantially in accordance with the plans and specifications for such damaged or destroyed Lot improvement prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the Owner of the Lot improvement which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed Lot improvement shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The Owner of any Lot improvement which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this paragraph shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this paragraph.

11. Roads. In the event any roads designated on recorded plats of any portion of Willowmere Parcel 4, Map 5 which are dedicated by Declarant for public use are not subsequently accepted by the appropriate governmental authorities for maintenance, Declarant reserves the right to convey by deed to the Association title to that portion of the Property comprising such roads, and each Owner, by his or her acceptance of a deed to a Lot, and the Association, by its acceptance of the deed to the Exclusive Common Area, acknowledges such reservation and the right of Declarant to transfer title to such portion of the Property comprising such roads, and the maintenance obligations associated therewith, to the Association. Upon any conveyance by Declarant to the Association pursuant to this paragraph, the property so conveyed shall constitute Exclusive Common Area under the Declaration.

12. Parking. The following provisions shall apply to parking of automobiles and other vehicles on the Exclusive Common Area:

(a) Ownership of a Lot shall entitle the Owner thereof to the exclusive use of certain automobile parking spaces located on the Exclusive Common Area as designated by the Declarant and as amended by rules and regulations promulgated by the Board of Directors.

(b) Declarant shall designate, and after all Class B Lots shall cease to exist and be converted to Class A Lots, the Board of Directors shall designate, parking spaces on the Exclusive Common Area for the exclusive use of guests and invitees of the Owners and such guests and invitees may use such parking spaces while visiting Owners for a period not to exceed one (1) week in time. No Owner shall park any automobile or other vehicle in the parking spaces designated for use by guests and invitees.

(c) There shall be no parking upon any Lot or the Exclusive Common Area of any commercial vehicle (this shall not include pickup trucks or vans which are specifically allowed), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft or boat trailer.

(d) The Board of Directors of the Association will make such reasonable rules and regulations as it may elect with respect to the parking of vehicles on the Lot or the Exclusive Common Area to implement, amplify or clarify the foregoing without the consent of the members of the Association.

13. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

14. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.



IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation has caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By:  (SEAL)  
Thomas W. Bruce, Attorney-in-Fact

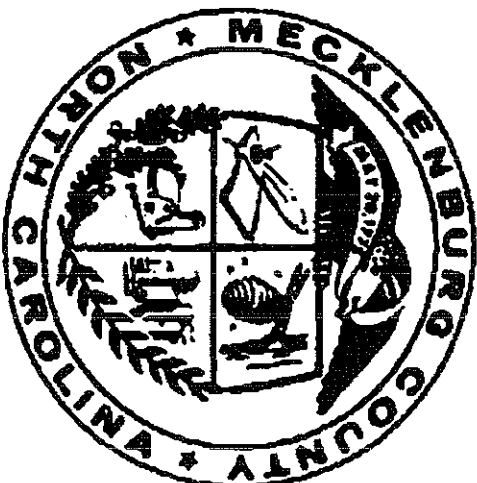
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.



I WITNESS my hand and official seal this 14<sup>th</sup> day of May, 1999.  
Expires: 11/8/03  
Marsha K. Dyer  
Notary Public



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 05/18/1999 03:17 PM

Book: RE 10481 Page: 282-290

Document No.: 1999089306

RESTR 9 PGS \$22.00

Recorder: CHARLOTTE PETTIT

State of North Carolina, County of Mecklenburg

The foregoing certificate of MARSHA K. DYER Notary is certified to be correct. This 18TH of May 1999

JUDITH A. GIBSON, REGISTER OF DEEDS BY: Marsha K. Dyer  
Deputy/Assistant Register of Deeds



1999089306

Drawn by and mail to: Horack, Talley, Pharr & Lowndes, P.A. (TIDP)  
Register of Deeds Box 74

FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS  
MECKLENBURG COUNTY, NC  
BOOK: 10684 PAGE: 1210:54, 4th  
INSTRUMENT # 1999143741  
FEE: \$20.00

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE ENCLAVE  
AT WILLOWMERE (PARCEL 3)

THIS SUPPLEMENTARY DECLARATION made as of this 5<sup>th</sup> day of August, 1999 by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant" and TGC, L.L.C., a Georgia limited liability company, referred to in this instrument as "TGC";

WITNESSETH:

WHEREAS, Declarant and TGC are the owners of the real property shown on the map of Willowmere Parcel 3, Map 3 recorded in Map Book 31 at Pages 253 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 3, Map 3"), the real property shown on the map of Willowmere Parcel 3, Map 4 recorded in Map Book 31 at Page 255 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 3, Map 4"), the real property shown on the map of Willowmere Parcel 3, Map 5 recorded in Map Book 31 at Pages 257 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 3, Map 5"), and the real property shown on the map of Willowmere Parcel 3, Map 6 recorded in Map Book 31 at Page 259 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 3, Map 6") which are a part of the exclusive residential community known as "Willowmere;" and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the exclusive residential community of Willowmere was created and certain general covenants, conditions and restrictions were thereby imposed on the property described in Exhibit A of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was incorporated under the laws of the State of North Carolina, as a non-profit corporation for the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and easement areas within Willowmere, and for the purpose of preserving, protecting and enhancing the values and amenities of property located within said community, and for enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the unilateral privilege and option of subjecting all or any portion of the property described on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant and TGC desire to incorporate Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6 within the property subject to the Declaration and Declarant and TGC have deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6 for the benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant and TGC do hereby subject Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and do hereby place and impose on Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6 the following additional conditions and restrictions:

1. Residential Use. All Lots shall be used for residential purposes only.
2. Building Line Requirements. The minimum set back lines which may be shown on any recorded plat depicting Lots are necessarily intended to create uniformity of setback. They are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment of the Common Area. The minimum set back lines shall only apply to the main dwelling on a Lot and all steps, stoops, porches and decks shall not be subject to the minimum set back lines. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of the building line requirements.
3. Building Requirements. No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 800 square feet in the case of a one-story building or 1000 square feet in the case of a two-story building.


4. Wall, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as may later be approved by the Architectural Control Committee.
5. Designation of The Enclave at Willowmere (Parcel 3) as Parcel. All Lots located within The Enclave at Willowmere (Parcel 3), including the Lots in Willowmere Parcel 3, Map 3, Willowmere Parcel 3, Map 4, Willowmere Parcel 3, Map 5, and Willowmere Parcel 3, Map 6, shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

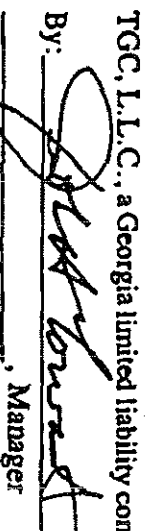
6. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

7. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company have caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By:  (SEAL)  
Thomas W. Bryce, Attorney-in-Fact

TGC, L.L.C., a Georgia limited liability company (SEAL)  
By:  (SEAL)  
John A. Brown, Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulite Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulite Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulite Home Corporation, a Michigan corporation.



Expires:  
11/8/03

Marsha K. Dyer  
Notary Public

STATE OF GEORGIA

COUNTY OF Cobb

I, Dawn J. Debuque, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, a Georgia limited liability company, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulite Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulite Home Corporation, a Michigan corporation.

WITNESS my hand and official seal this 5th day of August, 1999.

My Commission Expires:

Dawn J. Debuque  
Notary Public

Notary Public, Cobb County, Georgia  
My Commission Expires June 21, 2001

6/21/01

## CONSENT AND JOINDER

WHEREAS, Bank of America, National Association (formerly NationsBank, N.A.) (hereinafter referred to as "Beneficiary"), is the owner and holder of certain obligations secured by Deed of Trust recorded in Book 9243 at Page 7 and rerecorded in Book 9300 at Page 782 in the Mecklenburg County Public Registry and TIM, Inc. is Trustee under said Deed of Trust (hereinafter referred to a "Trustee");

WHEREAS, Trustee and Beneficiary have agreed, at the request of Pulse Home Corporation, a Michigan corporation and TGC, L.L.C., a Georgia limited liability company, to consent to the provisions of the attached Supplementary Declaration of Covenants, Conditions and Restrictions for The Enclave Willowmere (Parcel 3) (hereinafter referred to as the "Supplementary Declaration").

NOW, THEREFORE, Trustee and Beneficiary, by joining herein, hereby:

(1) Consent to the execution, delivery and recordation of the Supplementary Declaration;

(2) Subordinate the lien of the aforesaid Deed of Trust to the provisions of the Supplementary Declaration with the same effect as if the Supplementary Declaration had been executed, delivered and recorded prior to the execution, delivery and recordation of the Deed of Trust; and

(3) Agree, notwithstanding the foreclosure of the Deed of Trust (or a conveyance in lieu thereof), that the Supplementary Declaration and all rights therein described shall continue unabated and in full force and effect.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have hereunto set their hands and seals as of this 5<sup>th</sup> day of August, 1999.

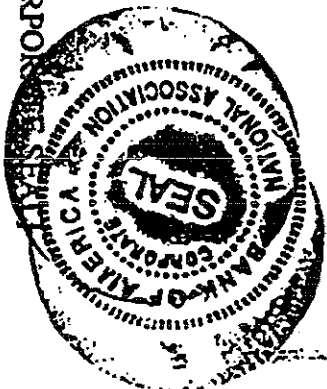


TRUSTEE:  
TIM, INC.

By: Henry A. Owen, Jr.  
President

ATTEST:  
Carol D. Cull  
Secretary

Henry A. Owen, Jr.  
Senior Vice President



**BENEFICIARY:**

**BANK OF AMERICA, NATIONAL  
ASSOCIATION (formerly NationsBank,  
N.A.)**

ATTEST:

Robert B. Cole  
Asst. Secretary

By: Henry A. Dyer, Jr.  
Sr. Vice President

Henry A. Dyer, Jr.  
Senior Vice President

STATE OF Georgia  
COUNTY OF Fulton

This 5 day of August, 1999, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry A. Dyer, Jr., who, being duly sworn, says that he is Sr. Vice President of TTM, INC., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said Sr. Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 5 day of August, 1999.



Notary Public

My Commission Expires

My Commission Expires  
October 27, 2002

10/27/02



STATE OF Georgia  
COUNTY OF Fulton

This 5 day of August, 1999, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Henry A Dyer Jr., who, being duly sworn, says that he is Service President of BANK OF AMERICA, NATIONAL ASSOCIATION (formerly NATIONSBANK, N.A.), and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said Service President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 5 day of August, 1999.

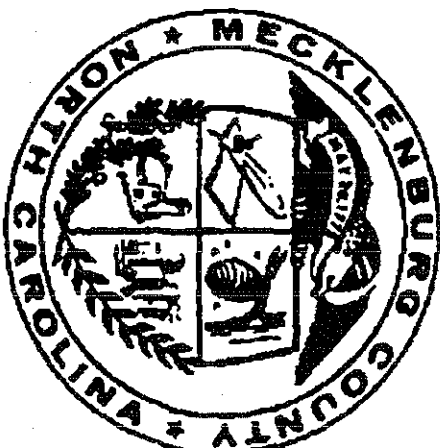
Terrence M. Carl  
Notary Public

My Commission Expires:



My Commission Expires  
October 17, 2002

10/27/02



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 08/12/1999 10:54 AM

Book: RE 10684 Page: 754-761

Document No.: 1999143741

RESTR 8 PGS \$20.00

Recorder: JESSIE YOUNG

State of North Carolina, County of Mecklenburg

The foregoing certificate of JEANNE M. CALHOUN, MARSHA K. DYER, DONNA J. DEBNAR Notaries are certified to be correct. This 12TH of August 1999

JUDITH A. GIBSON, REGISTER OF DEEDS BY:  
Deputy/Assistant Register of Deeds

*Jessie Young*



1999143741

Drawn by and mail to: Horrick, Talley, Pharr & Lowndes, P.A.  
Register of Deeds Box 74 (HDP)

SUPPLEMENTARY DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE MANOR  
AT WILLOWMERE TOWNHOMES (Parcel 4)

THIS SUPPLEMENTARY DECLARATION made as of this 27 day of September, 1999 by PULTE HOME CORPORATION, a Michigan corporation, referred to in this instrument as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on the map of Willowmere Parcel 4, Map 8 recorded in Map Book 31 at Page 843 in the office of the Register of Deeds for Mecklenburg County, North Carolina ("Willowmere Parcel 4, Map 8"), which is a part of the exclusive residential community known as "Willowmere;" and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 10097 at Page 926 in said office of the Register of Deeds (the "Declaration"), the exclusive residential community of Willowmere was created and certain general covenants, conditions and restrictions were thereby imposed on the property described in Exhibit A of the Declaration; and

WHEREAS, the Willowmere Community Association, Inc. (the "Association") was incorporated under the laws of the State of North Carolina, as a non-profit corporation for the purpose of maintaining the attractiveness of the Lots, Common Area and facilities and easement areas within Willowmere, and for the purpose of preserving, protecting and enhancing the values and amenities of property located within said community, and for enforcing the covenants, conditions and restrictions hereinabove referred to; and

WHEREAS, Article 8, Section 8.1 of the Declarations allows Declarant the unilateral privilege and option of subjecting all or any portion of the property described on Exhibit B attached to the Declaration to the provisions of the Declaration and the jurisdiction of the Association;

WHEREAS, Declarant desires to incorporate Willowmere Parcel 4, Map 8 within the property subject to the Declaration and Declarant has deemed it advisable to place and impose additional conditions and restrictions on Willowmere Parcel 4, Map 8 for the

Q

benefit of Declarant, its successors and assigns and all subsequent owners of any Lots in Willowmere Parcel 4, Map 8.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject Willowmere Parcel 4, Map 8 to the Declaration of Covenants, Conditions and Restrictions for Willowmere recorded in Book 10097 at Page 926 in the Mecklenburg County Public Registry, and does hereby place and impose on Willowmere Parcel 4, Map 8 the following additional conditions and restrictions:

1. Exclusive Common Areas. All Common Areas in Willowmere Parcel 4, Map 8 and the remainder of Common Area in The Manor at Willowmere Townhomes (Parcel 4) are designated Exclusive Common Areas for the exclusive use and benefit of the Owners of Lots in The Manor at Willowmere Townhomes.
2. Maintenance. Notwithstanding any provision in the Declaration to the contrary, the Association and Owner responsibilities are as follows:
  - (a) Association's Responsibility. The Association shall maintain and keep in good repair the Exclusive Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and grass areas, paving and other improvements situated on the Exclusive Common Area. The Association shall also maintain and keep in good repair all landscaping and grass areas within the boundaries of Lots, except each Owner of a Lot which has a courtyard or private patio area shall be responsible for the maintenance of the landscaping and grass areas within the boundaries of the courtyard or private patio area. The Association shall maintain and keep in good repair all paved or concrete walkways, driveways and parking areas, roads and streets not accepted by the appropriate governmental authorities for maintenance, water, sewer, gas and electricity lines, even though located partially or wholly within the boundaries of a Lot. The Association shall maintain and keep in good repair all sewer pipes or facilities which serve more than one (1) Lot, whether located within or without a Lot's boundaries. The Association shall be responsible for the cost for all trash collection services and all water and sewer services for the Lots. The Association shall maintain, repair and replace the roof, gutters and down spouts for each Lot.
  - (b) Owner's Responsibility. Except as provided in Paragraph 2(a) above, all maintenance and repair of the improvements on the Lot shall be the responsibility of the Owner thereof. This shall include, but is not limited to, providing exterior maintenance upon Lot improvements as follows: paint,

stain, repair, replace, and care for chimneys, entry doors, glass and their appurtenant hardware and all exterior building surfaces. The type or style of entry doors, glass and their appurtenant hardware shall not be replaced or changed by a Lot Owner without express written permission of the Association.

3. Parcel Expense. All costs and expenses associated with the Association's responsibilities in Paragraph 2(a) above shall be considered a Parcel Expense for Willowmere Parcel 4, Map 8 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) and a Parcel Assessment to fund this Parcel Expense shall be levied equally against all Lots in this Parcel. Easements for ingress, egress and regress over Willowmere Parcel 4, Map 8 and the remainder of The Manor at Willowmere Townhomes (Parcel 4) are hereby granted to the Association and it's agents in order that it may carry out the Association's responsibilities set forth in Paragraph 2(a) above.

4. Designation of The Manor at Willowmere Townhomes (Parcel 4) as Parcel. All Lots located within Willowmere Parcel 4, Map 8, shown on map recorded in Map Book 31 at Page 843 in the Mecklenburg County Public Registry shall be a part of The Manor at Willowmere Townhomes (Parcel 4) which shall constitute a separate "Parcel" in Willowmere as defined in Section 1.22 of the Declaration, with all rights of a Parcel under the Declaration appurtenant thereto.

5. Building Requirements. Minimum setback lines which may be shown on any recorded plat of Willowmere Parcel 4, Map 8 are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation and to insure each Owner the greatest benefit and enjoyment of the Exclusive Common Area. Declarant reserves the right to select the precise site location of each structure on each Lot and to arrange the same in such manner and for such reasons as the Declarant, deems sufficient, provided, however, such determination shall be consistent with the provisions set forth herein. Any building or structure or any part thereof located on any Lot may abut upon and be incorporated into any party wall, and there shall be no sideline setback requirement as to Lot sidelines upon which party walls are constructed. Any deviation from the building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of said building line requirements.

No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 750 square feet, and any dwelling shall abut, or be built so as to abut, any

dwelling on any adjoining lot as in the same manner as originally constructed by Declarant.

6. Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as my later be approved by the Architectural Control Committee.

7. Common Utility and Conduit Easement. All pipes, wires, conduits, water supply and sewer lines, public utility lines (electricity, telephone and gas) and cable television lines located within a residence on a Lot and serving only such residence shall be owned, maintained, repaired and replaced by the Owner of such residence. Every Owner shall have an easement in common with the Owners of other residences on Lots to maintain and use all pipes, wires, conduits, water supply and sewer lines, public utility lines and cable television lines located within other residences on Lots and servicing such Owner's residence. Each residence on a Lot shall be subject to an easement in favor of the Owners of other residences on Lots to maintain and use the pipes, wires, conduits, water supply, sewer systems and public utility lines and cable television lines.

The Association shall have the right of access to each residence on a Lot for the maintenance, repair, or replacement of any pipes, wires, conduits, water supply, sewer systems, public utility lines or cable television lines located in any residence on a Lot which also serves one or more other residences on other Lots. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement shall be a common expense which shall be the responsibility of the Association, except that, if such repair, maintenance or replacement is occasioned by a negligent or willful act or omission of a Owner and/or Occupant, it shall be considered a special expense allocable to the responsible Owner(s) and such cost shall be added to the assessment of such Owner(s) and, as part of that assessment, shall constitute a lien on the Owner(s)' Lot to secure the payment thereof.

The Association shall have an easement over the exteriors of all residences on the Lots for the placement, maintenance, repair and replacement of utility banks, meters and telephone pedestals.

8. Party Walls.

(a) Declaration. Each wall which is built as a part of the original construction of the improvements made on the Lots and which is placed on the dividing line between any two (2) Lots shall be deemed a party wall for the benefit of the Owner of said Lots and shall be used for the joint purpose of the dwellings separated thereby.

(b) Ownership and Maintenance. Without specific reference in the deed of conveyance of a Lot, conveyance of each Lot separated by any other Lot by a party wall shall be deemed to include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot, together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be deemed reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

(c) Applicable Law. The laws and precedents of the State of North Carolina in regard to party walls, and of liability for property damage due to negligence or willful acts or omissions shall apply hereto.

9. Insurance.

(a) Exclusive Common Area. It shall be the duty of the Association to obtain and maintain in effect at all times.

- (i) a policy of casualty insurance on all improvements located on the Exclusive Common Area; and
- (ii) a comprehensive policy of public liability insurance.

Each such insurance policy shall have such limits of coverage, and provide for such deductibles, as shall be determined by the Board of Directors.

(b) Lots. The owner of each Lot shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of

such Lot, on a replacement cost basis in an amount of not less than on hundred percent (100%) of the insurable value, based upon replacement costs, of the same.

10. Damage and Destruction.

(a) Exclusive Common Area. All damage that shall occur to any improvements located on any Exclusive Common Area on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Exclusive Common Area shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association.

(b) Lots. In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Lot improvements, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any improvements on Lots shall be substantially in accordance with the plans and specifications for such damaged or destroyed Lot improvement prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the Owner of the Lot improvement which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed Lot improvement shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The Owner of any Lot improvement which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this paragraph shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this paragraph.

11. Roads. In the event any roads designated on recorded plats of any portion of Willowmere Parcel 4, Map 8 which are dedicated by Declarant for public use are not subsequently accepted by the appropriate governmental authorities for maintenance, Declarant reserves the right to convey by deed to the Association title to that portion of the Property comprising such roads, and each Owner, by his or her acceptance of a deed to a Lot, and the Association, by its acceptance of the deed to the Exclusive Common Area, acknowledges such reservation and the right of Declarant to transfer title to such portion of the Property comprising such roads, and the maintenance obligations associated therewith, to the Association. Upon any conveyance by Declarant to the Association pursuant to this paragraph, the property so conveyed shall constitute Exclusive Common Area under the Declaration.



12. Parking. The following provisions shall apply to parking of automobiles and other vehicles on the Exclusive Common Area:

(a) Ownership of a Lot shall entitle the Owner thereof to the exclusive use of certain automobile parking spaces located on the Exclusive Common Area as designated by the Declarant and as amended by rules and regulations promulgated by the Board of Directors.

(b) Declarant shall designate, and after all Class B Lots shall cease to exist and be converted to Class A Lots, the Board of Directors shall designate, parking spaces on the Exclusive Common Area for the exclusive use of guests and invitees of the Owners and such guests and invitees may use such parking spaces while visiting Owners for a period not to exceed one (1) week in time. No Owner shall park any automobile or other vehicle in the parking spaces designated for use by guests and invitees.

(c) There shall be no parking upon any Lot or the Exclusive Common Area of any commercial vehicle (this shall not include pickup trucks or vans which are specifically allowed), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft or boat trailer.

(d) The Board of Directors of the Association will make such reasonable rules and regulations as it may elect with respect to the parking of vehicles on the Lot or the Exclusive Common Area to implement, amplify or clarify the foregoing without the consent of the members of the Association.

13. Defined Terms. The words used in this Supplementary Declaration shall have the same meaning as set forth in the Declaration, unless the context shall otherwise prohibit.

14. Covenants Running with Land. These covenants shall run with the land and shall be binding upon all persons claiming under them for a period of thirty (30) years from the date of recordation of the Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3rds) of the Class A and B members, has been recorded within the year preceding the beginning of each successive period for ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

IN WITNESS WHEREOF, Pulte Home Corporation, a Michigan corporation has caused this SUPPLEMENTARY DECLARATION to be executed under seal as of the day and year first above written.

PULTE HOME CORPORATION, a Michigan corporation

By:  (SEAL)  
Thomas W. Bruce, Attorney-in-Fact

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

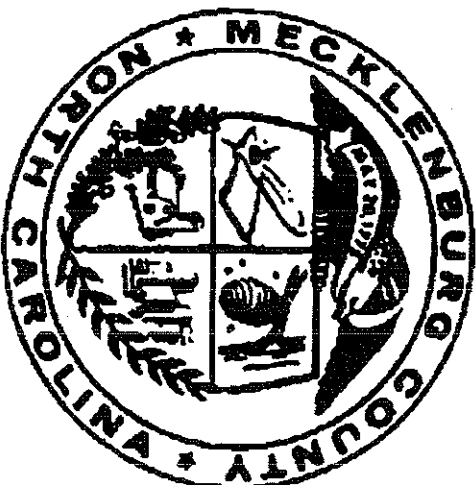
I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961 at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledged the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.

WITNESS my hand and official seal this 27<sup>th</sup> day of September, 1999.

My Commission Expires: 11-08-03

Marsha K. Dyer  
Notary Public





JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

Filed For Registration: 09/27/1999 04:05 PM

Book: RE 10788 Page: 171-179

Document No.: 1999174292

RESTR 9 PGS \$22.00

Recorder: NANCY JONES

State of North Carolina, County of Mecklenburg

The foregoing certificate of MARSHA K. DYER Notary is certified to be correct. This 27TH of September 1999

JUDITH A. GIBSON, REGISTER OF DEEDS BY: *Nancy Jones*  
Deputy/Assistant Register of Deeds



1999174292